

R381. Health and Human Services, Child Care Center Licensing.

R381-40. Commercial Preschool Programs.

R381-40-1. Authority and Purpose.

- (1) **Section 26B-2-402** authorizes this rule.
- (2) This rule establishes the foundational standards necessary to protect the health and safety of children in commercial preschool programs and defines the general procedures and requirements to get and maintain a license to provide this type of child care.

R381-40-2. Definitions.

- (1) "Applicant" means a person or business who has applied for a new or a renewal of a license from **the department**.
- (2) "Background Finding" means information in a background check that **the department** uses to determine if a covered individual is or is not eligible to be involved with child care.
- (3) "Barrier" means an enclosing structure **including** a fence, wall, bars, railing, or solid panel to prevent accidental or deliberate movement through or access to something.
- (4) "Body Fluid" means blood, urine, feces, vomit, mucus, or saliva.
- (5) "Business Days and Hours" means the days of the week and times the facility is open for business.
- (6) "Caregiver" means a covered individual who protects the health and safety of children. A covered individual is a caregiver when they:
 - (a) count in the caregiver-to-child ratio;
 - (b) meet the physical or emotional needs of the children, including diapering, toileting, feeding, or protecting them from harm; or
 - (c) supervise children.
- (7) "Capacity" means the maximum number of children the provider is allowed to care for at any given time.
- (8) "Caregiver-to-Child Ratio" means the number of caregivers responsible for a specific number of children.
- (9) "CCL" means the Child Care Licensing Program **under the Office of Licensing** that is delegated with the responsibility to enforce the **rules under Titles R381 and R430**.
- (10) "Child Care" means continuous care and supervision of **one** or more qualifying children that is:
 - (a) in place of care ordinarily provided by a parent in the parent's home;
 - (b) for less than 24 hours a day; and
 - (c) for direct or indirect compensation.
- (11) "Child Care Program" means a person or business that offers child care.
- (12) **"Child Care Provider Licensing Committee" means the Child Care Provider Licensing Committee created in Section 26B-1-414.**
- (13) "Choking Hazard" means an object or a removable part on an object with a diameter of less than 1-1/4 inches and a length of less than 2-1/4 inches that could be caught in a child's throat blocking their airway and making it difficult or impossible to breathe.
- (14) "Conditional Status" means that the provider is at risk of losing their child care license because compliance with any **laws or administrative rules** has not been maintained.

- (15) "Covered Individual" means any of the following individuals involved with a child care program:
- (a) an owner;
 - (b) a director;
 - (c) a member of the governing body;
 - (d) an employee;
 - (e) a caregiver;
 - (f) a volunteer, except a parent of a child enrolled in the child care program;
 - (g) an individual age 12 years old or older who resides in the facility; and
 - (h) anyone who has unsupervised contact with a child in care.
- (16) "Department" means the Utah Department of Health **and Human Services**.
- (17) "Designated Play Surface" means any accessible elevated surface for standing, walking, crawling, sitting or climbing; or an accessible flat surface at least two by two inches in size and having an angle less than 30 degrees from horizontal.
- (18) "Director" means an individual who meets the director qualifications under Section R381-40-7, and who assumes the child care program's day-to-day responsibilities under Rule R381-40.
- (19) "Early Childhood Education" means a program of study that prepares an individual for the teaching of children in their early years, normally from birth up to the age of eight years old.
- (20) "Eligible" means that **there w**ere no findings in a covered individual's background check that **w**ould prohibit that covered individual from being involved with child care.
- (21) "Emotional Abuse" **is defined in Subsection R512-80-2(12) and also means** behavior that could harm a child's emotional development, **including** threatening, intimidating, humiliating, demeaning, criticizing, rejecting, using profane language, or using inappropriate physical restraint.
- (22) "Entrapment Hazard" means an opening greater than 3-1/2 by 6-1/4 inches and less than nine inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing a child's entrapment and strangulation.
- (23) "Facility" means the premises approved by the department to be used for child care.
- (24) "Group" means the children who **the provider assigns to one or more caregivers for their care and supervision**.
- (25) "Guest" means an individual who is not a covered individual and is at the child care facility for a short time with the provider's permission.
- (26) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence.
- (27) "Inaccessible" means out of reach of children by being:
- (a) locked, **including i**n a locked room, cupboard, or drawer;
 - (b) secured with a child safety device, **including** a child safety cupboard lock or door knob device;
 - (c) behind a properly secured child safety gate;
 - (d) located at least 36 inches above the floor; or
 - (e) if in a bathroom, at least 36 inches above any surface from where a child could stand or climb.

- (28) "Infectious Disease" means an illness that is capable of being spread from one individual to another.
- (29) "Involved with Child Care" means to do any of the following at or for a child care program:
- (a) care for or supervise children;
 - (b) volunteer;
 - (c) own, operate, direct;
 - (d) Reside;
 - (e) count in the caregiver-to-child ratio; or
 - (f) have unsupervised contact with a child in care.
- (30) "License" means a license issued by the department to provide child care services.
- (31) "Licensee" means the legally responsible person or business that holds a valid license from the department.
- (32) "LIS Supported Finding" means a supported finding of child abuse or neglect in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the department.
- (33) "Over-the-Counter Medication" means medication that an individual can purchase without a written prescription including herbal remedies, vitamins, and mineral supplements.
- (34) "Parent" means the parent or legal guardian of a child in care.
- (35) "Person" means an individual or a business entity.
- (36) "Physical Abuse" is defined in Subsection R512-80-2(25) and also m means causing non accidental physical harm to a child.
- (37) "Play Equipment Platform" means a flat surface on a piece of stationary play equipment intended for more than one child to stand on, and upon which the children can move freely.
- (38) "Preschooler" means a child age two through four years old.
- (39) "Protective Barrier" means a structure including bars, lattice, or a panel that is around an elevated platform and is intended to prevent accidental or deliberate movement through or access to something.
- (40) "Protective Cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of injuries from falls.
- (41) "Provider" means the legally responsible person or business that holds a valid license or certification from the department.
- (42) "Qualifying Child" means:
- (a) a child who is younger than 13 years old and is the child of an individual other than the child care provider or caregiver;
 - (b) a child with a disability who is younger than 18 years old and is the child of an individual other than the provider or caregiver; or
 - (c) a child who is younger than four years old and is the child of the provider or a caregiver.
- (43) "Related Child" means a child for whom a provider is the parent, legal guardian, stepparent, grandparent, step-grandparent, great grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.
- (44) "Room" is defined as follows:
- (a) if a large room is divided into smaller rooms or areas with barriers including furniture or with half walls, the room or area is considered:
 - (i) one room, if the room is divided by a solid barrier that is less than

- 24 inches, whether the barrier is movable or immovable;
 - (ii) one room, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is an opening in the barrier through which caregivers and children can move freely;
 - (iii) two rooms, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked **including** with a child safety gate, **including** a diaper changing station that is located behind a closed gate;
 - (iv) two rooms, if the room is divided by a solid barrier that is over 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked **including** with a child safety gate; **or**
 - (v) **if there is an opening through which caregivers and children can move freely and the opening is not blocked, refer to the instructions for a large opening, archway, or doorway;**
- (b) **if** two rooms or areas are connected by a large opening, archway, or doorway, the rooms or areas are considered:
 - (i) one room, if the width of the opening or archway is equal to or greater than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas, and there is no furniture or other dividers blocking the opening or archway, **ot**herwise the department shall consider this to be two rooms; or
 - (ii) two rooms, if the width of the opening or archway is smaller than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas; **and**
- (c) **if** in outdoor areas separated by interior fences, areas are considered:
 - (i) one area, if the interior fence is 24 inches in height or lower, whether or not the fence has an opening;
 - (ii) one area, if the interior fence is 40 inches or lower in height with an opening through which caregivers and children can move freely;
 - (iii) two areas if the interior fence is higher than 24 inches and there is no opening; or
 - (iv) two areas, if the interior fence is higher than 40 inches whether or not the fence has an opening.
- (45) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.
- (46) "Sexual Abuse" **is defined in Subsection R512-80-2(30) and also m** means to take indecent liberties with a child with the intention to arouse or gratify the sexual desire of an individual or to cause pain or discomfort.
- (47) "Sexually Explicit Material" means any depiction of actual or simulated sexually explicit conduct.
- (48) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.
- (49) "Stationary Play Equipment" means equipment **including** a climber, slide, swing, merry-go-round, or spring rocker that is meant to stay in one location when a child uses it. Stationary play equipment does not include:

- (a) a sandbox;
 - (b) a stationary circular tricycle;
 - (c) a sensory table; or
 - (d) a playhouse that sits on the ground or floor and does not have an attached slide, swing, or climber.
- (50) "Strangulation Hazard" means something on which a child's clothes or drawstrings could become caught, or something in which a child could become entangled **including:**
- (a) a protruding bolt end that extends more than two threads beyond the face of the nut;
 - (b) hardware that forms a hook or leaves a gap or space between components **including** a protruding open S-hook; or
 - (c) a rope, cord, or chain that is attached to a structure and is long enough to encircle a child's neck.
- (51) "Unsupervised Contact" means being with, caring for, communicating with, or touching a child in the absence of a caregiver or other employee who is at least 18 years old and **is considered eligible by CCL.**
- (52) "Use Zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.
- (53) **"Volunteer" means an individual who receives no form of direct or indirect compensation for their service.**
- (54) "Working Days" means the days of the week the department is open for business.

R381-40-3. License Required.

- (1) A person shall **obtain a** preschool program license **from the department if** they provide care:
 - (a) in the absence of the child's parent;
 - (b) in a place other than the provider's home or the child's home;
 - (c) for five or more qualifying children between the ages of two and four years old, and five years old if the child is not attending school;
 - (d) for each individual child for less than four hours a day;
 - (e) on an ongoing basis for more than two days a week and for four or more weeks in a year;
 - (f) for direct or indirect compensation; and
 - (g) where care does not include preparing meals for children.
- (2) A person who **does not meet licensing requirements** may voluntarily receive a license, except for care that is for related children only or on a sporadic basis.
- (3) **The department may license a provider to provide child care in a facility that the department licensed to offer foster or respite care services, or another licensed or certified human services program, if the part of the building requesting a CCL license is physically separate from the other building services.**

R381-40-4. License Application, Renewal, Changes, and Variances.

- (1) Each applicant for a new child care license shall:
 - (a) submit a CCL online application;
 - (b) submit a copy of a current local fire clearance or a written statement

- from the local fire authority that a fire inspection is not required;
 - (c) submit a copy of a current local business license or a written statement from the city that a business license is not required;
 - (d) submit a copy of a current local health department kitchen clearance for a facility providing food service or a written statement from the local health department that a kitchen inspection is not required;
 - (e) have a copy of the educational credentials of the individual who will be the director as required in Section R381-40-7, ready for review by the department;
 - (f) complete CCL background checks for covered individuals as required in Section R381-40-8;
 - (g) complete CCL new provider training no more than six months before becoming licensed; and
 - (h) pay any required fees, which are nonrefundable.
- (2) Each applicant shall pass a department's inspection of the facility before a new or a renewal license is issued.
- (3) If the local fire authority states in writing that an applicant for a new or a renewal license does not require a fire inspection, the department shall verify the applicant's compliance with the following:
 - (a) address numbers and letters are readable from the street;
 - (b) exit doors operate properly and are well maintained;
 - (c) there are no obstructions in exits, aisles, corridors, and stairways;
 - (d) exit doors are unlocked from the inside during business hours;
 - (e) exits are clearly identified;
 - (f) there is at least one unobstructed fire extinguisher on each level of the building, currently charged and serviced, and mounted not more than five feet above the floor;
 - (g) there are working smoke detectors that are properly installed on each level of the building; and
 - (h) boiler, mechanical, and electrical panel rooms are not used for storage.
- (4) If an applicant for a new or a renewal license serves food and the local health department states in writing that a kitchen inspection is not required, the department shall verify the applicant's compliance with the following:
 - (a) the refrigerator is clean, in good repair, and working at or below 41 degrees Fahrenheit;
 - (b) there is a working thermometer in the refrigerator;
 - (c) reusable food holders, utensils, and food preparation surfaces are washed, rinsed, and sanitized before each use;
 - (d) chemicals are stored away from food and food service items;
 - (e) food is properly stored, kept to the proper temperature, and in good condition; and
 - (f) there is a working handwashing sink in the kitchen and hand washing instructions posted by the sink.
- (5)
 - (a) Each applicant for a new license shall complete the licensing process within six months from the time any portion of the application is submitted to the department.
 - (b) If successful licensure is not achieved by the applicant within six months, the applicant shall reapply.

- (c) Any resubmission shall include the required documentation and payment of licensing fees.
 - (d) The department shall conduct a new inspection of the facility before issuing a license.
- (6) The department may deny an application for a new or renewal license if, within the five years preceding the application date, the applicant held a license or a certificate that was:
- (a) closed under an immediate closure;
 - (b) revoked;
 - (c) closed as a result of a settlement agreement resulting from a notice of intent to revoke, a notice of revocation, or a notice of immediate closure;
 - (d) voluntarily closed after the department found a violation to any rule under Rule R381-40 that would have resulted in a notice of intent to revoke or a notice of revocation had the provider not closed voluntarily; or
 - (e) voluntarily closed having unpaid fees or civil money penalties issued by the department.
- (7) Each child care license expires at midnight on the last day of the month shown on the license, unless the department revokes the license or the provider voluntarily closes the license.
- (8) Within 30 to 90 days before a current license expires, each provider shall submit for renewal:
- (a) an online renewal request;
 - (b) applicable renewal fees;
 - (c) any previous unpaid fees; and
 - (d) a copy of a current fire inspection report.
- (9) The department may grant a provider who fails to renew their license by the expiration date an additional 30 days to complete the renewal process if the provider pays a late fee.
- (10) The department may deny renewal of a license for a provider who is no longer caring for children.
- (11) Each provider shall submit a complete application for a new license at least 30 days before any of the following changes occur:
- (a) a change of the child care facility's location; or
 - (b) a change that transfers 50% or more ownership or controlling interest to a new individual or entity.
- (12) A provider shall submit a complete online change request to amend an existing license at least 30 days before any of the following changes:
- (a) an increase or decrease of licensed capacity, including any change to the amount of usable indoor or outdoor space where child care is provided;
 - (b) a change in the name of the program;
 - (c) a change in the regulation type of the program;
 - (d) a change in the name of the provider;
 - (e) an addition or loss of a director; or
 - (f) a change in ownership that does not require a new license.
- (13) The department may amend a license after verifying that the applicant is in compliance with each applicable rule under Rule R381-40 and has paid the required fees. The expiration date of the amended license remains the same

as the previous license.

(14) Only the department may assign, transfer, or amend a license.

(15)

- (a) **If** an applicant or provider cannot comply with a rule under Rule R381-40 but can meet the intent of the rule in another way, the applicant or provider may apply for a variance to that rule by submitting a request to the department.
- (b) The department may:
 - (i) require additional information before acting on **a** variance request; and
 - (ii) impose health and safety requirements as a condition of granting a variance.
- (c) Each provider shall comply with the existing Rule R381-40 **unless the department approves a** variance.
- (d) **If the department approves a** variance, the provider shall keep a copy of the written approval on-site for review by parents and the department.
- (e) The department may grant variances for up to 12 months.
- (f) The department may revoke a variance if:
 - (i) the provider is not meeting the intent of the rule as stated in their approved variance;
 - (ii) the provider fails to comply with the conditions of the variance; or
 - (iii) a change in statute, rule, or case law affects the basis for the variance.

R381-40-5. Rule **Noncompliance, Penalties, and Agency Action Reviews.**

- (1) The department may place a program's child care license on a conditional status for the following causes:
 - (a) chronic, ongoing noncompliance with the requirements under Rule R381-40;
 - (b) unpaid fees; or
 - (c) a serious rule violation that places children's health or safety in immediate jeopardy.
- (2) The department shall establish the length of the conditional status and set the conditions that the child care provider shall satisfy to remove the conditional status.
- (3) The department may increase monitoring of the program that is on conditional status to verify compliance with Rule R381-40.
- (4) The department may deny or revoke a license if the child care provider:
 - (a) fails to meet the conditions of a license on conditional status;
 - (b) violates **any part of Title 26B, Chapter 2, Part 4, Child Care Licensing;**
 - (c) provides false or misleading information to the department;
 - (d) misrepresents information by intentionally altering a license or any other document issued by the department;
 - (e) fails to allow authorized representatives of the department access to the facility to ensure compliance with the requirements under Rule R381-40;
 - (f) fails to submit or make available to the department any written documentation needed to verify compliance with the requirements under Rule R381-40;
 - (g) commits a serious rule violation that results in death or serious harm

- to a child, or that places a child at risk of death or serious harm; or
- (h) has committed an illegal act that would exclude an individual from having a license.
- (5) Within ten working days of receipt of a revocation notice, the provider shall submit to the department the names and mailing addresses of the parents of each enrolled child so the department can notify the parents of the revocation.
- (6) The department may order the immediate closure of a facility if conditions create a clear and present danger to any child in care and may require immediate action to protect the children's health or safety.
- (7) Upon receipt of an immediate closure notice, the provider shall give the department the names and mailing addresses of the parents of each enrolled child so the department can notify the parents of the immediate closure.
- (8) If there is a severe injury or the death of a child in care, the department may order a child care provider to suspend services and prohibit new enrollments, pending a review by the DHHS Child Fatality Review Committee or a determination of the probable cause of death or injury by a medical professional.
- (9) An unlicensed person providing care that requires a license may be charged with a civil money penalty and a class A misdemeanor unless they:
- (a) stop providing child care that requires a license; or
- (b) apply for the appropriate license within 30 calendar days of notification by the department.
- (10) If a person providing care without the appropriate license agrees to apply for a license but does not submit an application and the required application documents within 30 days, the department may issue a cease and desist order.
- (11) A violation of any of the requirements under Rule R381-40 is punishable by an administrative civil money penalty of up to \$5,000 a day as provided in Section 26B-2-409.
- (12) The department may assess a civil money penalty and also take action to deny, place on conditional status, revoke, immediately close, or refuse to renew a license.
- (13) The department may deny an application or revoke a license for failure to pay any required fees, including fees for applications, late fees, returned checks, license changes, additional inspections, conditional monitoring inspections, background checks, civil money penalties, and other fees assessed by the department.
- (14) An applicant or provider may request a an agency review for any department decision within ten working days of being informed in writing of the decision.

R381-40-6. Administration and Children's Records.

- (1) The provider shall:
- (a) be at least 21 years old;
- (b) be considered eligible by a CCL background check before becoming involved with child care; and
- (c) complete the new provider training offered by the department.
- (2) If the owner is not a sole proprietor, the business entity shall submit to the department the names and contact information of the individuals who shall legally represent them and who shall comply with the requirements under

Subsection R381-40-6(1).

- (3) The provider shall protect children from conduct that endangers children in care, or is contrary to the health, welfare, and safety of the public.
- (4) The provider shall know and comply with each applicable federal, state, and local law, ordinance, and rule, and **maintain responsibility** for the operation and management of a child care program.
- (5) The provider shall comply with the requirements under Rule R381-40 any time a child in care is present.
- (6) The provider shall post their unaltered child care license on the facility premises in a place readily visible and accessible to the public.
- (7) The provider shall post a current copy of the department's Parent Guide at the facility for parent review during business hours.
- (8) The provider shall inform parents and the department of any changes to the program's telephone number and other contact information within 48 hours of the change.
- (9) The provider shall:
 - (a) have liability insurance; or
 - (b) inform parents in writing that the provider does not have liability insurance.
- (10) The provider shall ensure that a parent completes an admission and health assessment form for their child before the child is admitted into the child care program.
- (11) The provider shall ensure that each child's admission and health assessment form includes the following information:
 - (a) child's name;
 - (b) child's date of birth;
 - (c) parent's name, address, and phone number, including a daytime phone number;
 - (d) names of individuals authorized by the parent to sign the child out from the facility;
 - (e) name, address, and phone number of an individual to be contacted if an emergency happens and the provider cannot contact the parent;
 - (f) if available, the name, address, and phone number of an out-of-area emergency contact individual for the child;
 - (g) parent's permission for emergency transportation and emergency medical treatment;
 - (h) any known allergies of the child;
 - (i) any known food sensitivities of the child;
 - (j) any chronic medical conditions that the child may have;
 - (k) instructions for special or nonroutine daily health care of the child;
 - (l) current ongoing medications that the child may be taking; **and**
 - (m) any other special health instructions for the caregiver.
- (12) The provider shall ensure that the admission and health assessment form is:
 - (a) reviewed, updated, and signed or initialed by the parent at least annually; and
 - (b) kept on-site for review by the department.
- (13) **Before admitting any child into the program, including the provider's and employees' own children, the provider shall obtain the following documentation from the child's parent:**
 - (a) **current immunizations;**

- (b) a medical schedule to receive required immunizations;
 - (c) a legal exemption; or
 - (d) a 90-day exemption for foster children and children who are homeless.
- (14) The provider shall ensure that each child's information is confidential and not released without written parental permission except to the department.

R381-40-7. Personnel and Training Requirements.

- (1) The provider shall ensure that employees and volunteers are supervised, qualified, and trained as stated under Rule R381-40 to:
 - (a) meet the needs of the children; and
 - (b) comply with each requirement.
- (2) The provider shall ensure that the preschool program has a qualified director as required under Section R381-40-7.
- (3) The provider shall ensure that the director:
 - (a) is at least 21 years old;
 - (b) is considered eligible by a CCL background check before becoming involved with child care;
 - (c) if hired after January 1, 2023, has completed the 2-1/2 hour preservice training offered by the department;
 - (d) completes the new director training offered by the department within 60 working days of assuming director duties;
 - (e) knows and follows any applicable laws and requirements under Rule R381-40; and
 - (f) completes at least ten hours of child care training each year based on the facility's license date, or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year.
- (4) The provider shall ensure that new directors have one of the following educational credentials:
 - (a) any bachelor's or higher education degree;
 - (b) at least 60 clock hours of coursework in child development, social and emotional development, and the child care environment, or 60 clock hours of equivalent training as approved by the department;
 - (c) at least 12 college credit hours of child development courses;
 - (d) a currently valid national certification including a Certified Childcare Professional issued by the National Child Care Association, a current Child Development Associate issued by the Council for Early Childhood Professional Recognition, a current National Administrator Credential, or other equivalent credential as approved by the department;
 - (e) at least an associate degree in early childhood development or related field; or
 - (f) proof of at least five years of early education teaching experience.
- (5) The provider shall ensure that the director is on duty at the facility for at least half of the time every week the program is open.
- (6) The provider shall ensure that there is a director designee with authority to act on behalf of the director in the director's absence.
- (7) The provider shall ensure that the director designee:
 - (a) is at least 18 years old;
 - (b) is considered eligible by a CCL background check before becoming involved with child care;
 - (c) if hired after January 1, 2023, has completed the 2-1/2 hour preservice

- (d) training offered by the department before beginning job duties;
 - (e) knows and follows any applicable laws and requirements under Rule R381-40;
 - (f) completes at least ten hours of child care training each year based on the facility's license date, or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year; and
 - (g) has current first aid and cardiopulmonary resuscitation (CPR) certification.
- (8) The provider shall ensure that the director or the director designee is present at the facility when the program is open for care.
- (9) The provider shall ensure that caregivers:
- (a) are at least 16 years old;
 - (b) are considered eligible by a CCL background check before becoming involved with child care;
 - (c) complete the 2-1/2 hour preservice training offered by the department before caring for children;
 - (d) know and follow any applicable laws and requirements under Rule R381-40;
 - (e) are introduced to other program staff and to the caregiver's assigned group of children;
 - (f) review the information in each child's health assessment in the caregiver's assigned group, including allergies, food sensitivities, and other individual needs; and
 - (g) complete at least ten hours of child care training each year, based on the facility's license date, or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year.
- (10) The provider shall ensure that any other staff including drivers, cooks, and clerks:
- (a) are considered eligible by a CCL background check before becoming involved with child care;
 - (b) complete the 2-1/2 hour preservice training offered by the department before beginning job duties; and
 - (c) know and follow any applicable laws and requirements under Rule R381-40.
- (11) The provider shall ensure that volunteers are eligible by a CCL background check before becoming involved with child care.
- (12) The provider shall ensure that student interns who are registered and participating in a high school or college child care course and guests wear a guest nametag.
- (13) The provider shall ensure that household members who are:
- (a) 12 to 17 years old are considered eligible by a CCL background check; and
 - (b) 18 years old or older are eligible by a CCL background check that includes fingerprints.
- (14) The provider shall ensure that individuals who provide Individualized Educational Plan or Individualized Family Service plan services including physical, occupational, or speech therapists:
- (a) provide proper identification before having access to the facility or to a

- child at the facility; and
 - (b) have received the child's parent's permission for services to take place at the facility.
- (15) The provider shall ensure that individuals from law enforcement, Child Protective Services, the department, and any similar entities provide proper identification before having access to the facility or to a child at the facility.
- (16) The provider shall ensure that each covered individual required to complete preservice training receives the 2-1/2 hour preservice training offered by the department that includes at least the following topics:
- (a) applicable laws and requirements under Rule R381-40;
 - (b) children whose special needs may include a disability;
 - (c) recognizing the signs of homelessness and available assistance;
 - (d) building and physical premises safety;
 - (e) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;
 - (f) pediatric first aid and CPR;
 - (g) emergency preparedness, response, and recovery plan;
 - (h) prevention of and response to emergencies due to food and allergy reactions;
 - (i) safe handling and disposal of hazardous materials and bio contaminants;
 - (j) prevention and control of infectious diseases including immunizations;
 - (k) administration of medication;
 - (l) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;
 - (m) precautions in transporting children;
 - (n) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies; and
 - (o) prevention of sudden infant death syndrome and the use of safe sleeping practices.
- (17) The provider shall ensure that annual child care training includes at least the following topics:
- (a) Sections R381-40-7 through R381-40-22; and
 - (b) each topic listed in Subsections R381-40-7(16)(a) through (o).
- (18) The provider shall ensure that documentation of each individual's annual child care training is on-site for review by the department and includes the following:
- (a) training topic;
 - (b) date of the training;
 - (c) name of the individual or organization that presented the training; and
 - (d) total hours or minutes of training.
- (19) The provider shall ensure that at least one staff member with a current Red Cross, American Heart Association, or equivalent pediatric first aid and CPR certification is present when children are in care:
- (a) at the facility;
 - (b) in each vehicle transporting children; and
 - (c) at each offsite activity.
- (20) The provider shall ensure that CPR certification includes hands-on testing.
- (21) The provider shall ensure that the following records for each covered individual are on-site for review by the department:

- (a) the date of initial employment or association with the program;
- (b) a current pediatric first aid and CPR certification, if required under Rule R381-40; and
- (c) a six-week record of the times worked each day.

R381-40-8. Background Checks.

- (1) Before a new covered individual becomes involved with child care, the provider shall use the CCL provider portal search to verify that the individual is eligible and:
 - (a) associate that individual with their facility; or
 - (b) not associate the individual if the individual is associated with another CCL facility and the new individual will be at the facility for no more than one business day.
- (2) Before a new covered individual who does not appear in the CCL provider portal search becomes involved with child care in the program, the provider shall:
 - (a) require the individual to submit an online background check form and fingerprints for individuals age 18 years old and older;
 - (b) authorize the individual's background check through the CCL provider's portal;
 - (c) pay any required fees; and
 - (d) receive written notice from CCL that the individual is eligible.
- (3) To keep their background check eligibility current, the provider shall require a covered individual to submit a new background check form, fingerprints, and fees if the covered individual has:
 - (a) resided outside of Utah since their last background check was completed;
 - (b) not been associated with an active, CCL approved child care facility within the past 180 days; or
 - (c) has turned 18 years old and has not previously submitted fingerprints for a CCL background check. If the 18-year-old has previously submitted fingerprints for a CCL background check, only a new background check form will be required.
- (4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall:
 - (a) ensure that an online background check form is submitted;
 - (b) authorize the child's background check through the CCL provider's portal; and
 - (c) pay any required fees.
- (5) The provider shall ensure that fingerprints are prepared by a local law enforcement agency or an agency approved by local law enforcement.
- (6) If a covered individual submits fingerprints electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows the department's guidelines.
- (7) The department may consider a covered individual not eligible for any of the following reasons:
 - (a) LIS supported findings;
 - (b) the covered individual's name appears on the Utah or national sex offender registry;
 - (c) the covered individual refuses to consent to the criminal background check;

- (d) the covered individual knowingly makes a false statement in connection with their background check;
 - (e) any felony convictions; or
 - (f) for any of the reasons listed under Subsection R381-40-8(8).
- (8) The department may also consider a covered individual not eligible for any of the following convictions regardless of severity:
- (a) child pornography;
 - (b) sexual enticing of a minor;
 - (c) voyeurism;
 - (d) a sexual exploitation act;
 - (e) pornographic material or performance;
 - (f) any crime against an individual;
 - (g) providing dangerous weapons or firearms to a minor; or
 - (h) driving under the influence while a child is present in the vehicle.
- (9) The department shall consider a covered individual eligible if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before CCL **conducted the** background check.
- (10) If the provider is not eligible by CCL, the department may suspend or deny their license until the reason for the background check finding is resolved.
- (11) If a covered individual is deemed not eligible by CCL, including that the individual has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, the provider shall prohibit that individual from being employed by the child care program or residing at the facility until the reason for the background check finding is resolved.
- (12) **If the department denies** a covered individual a license or employment **by the provider** based upon the criminal background check and disagrees with the information provided by the Department of Public Safety, the covered individual may appeal the information to the Department of Public Safety.
- (13) The provider and the covered individual shall notify the department within 48 hours of becoming aware of the covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or supported LIS finding. Failure to notify the department within 48 hours may result in disciplinary action, including revocation of the license.
- (14) The Executive Director of the department, **or their designee** may overturn a CCL background check decision if they **d**etermine that the nature of the background finding or mitigating circumstances do not pose a risk to children.

R381-40-9. Facility.

- (1) The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint **undergoes a test** for lead. If **there is** lead-based paint **at the facility**, the provider shall contact their local health department within five working days and follow required procedures for remediation of the lead hazard.
- (2) The provider shall ensure that each room and indoor area that children **use** is ventilated by mechanical ventilation, or by windows that open and have screens.
- (3) The provider shall ensure that windows and glass doors within 36 inches from the floor or ground are made of safety or tempered glass, or have a

- protective guard.
- (4) The provider shall ensure that rooms and areas have adequate light intensity for the safety of the children and the type of activity the provider is conducting.
 - (5) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.
 - (6) The provider shall ensure that there is a working telephone at the facility, in each vehicle while transporting children, and during offsite activities.
 - (7) The provider shall ensure that there is at least one working toilet and one working sink when there are up to 15 children in the facility, and at least two working toilets and two working sinks when there are more than 15 children present in the facility.
 - (8) If there is an outdoor area in the facility, the provider shall ensure that the outdoor area:
 - (a) is safely accessible to the children;
 - (b) is enclosed within a fence, wall, or solid natural barrier that is at least four feet high; and
 - (c) has no gaps five by five inches or greater in or under the fence or barrier.
 - (9) If the provider does not empty the swimming pool on the premises after each use, the provider shall:**
 - (a) meet applicable state and local laws and ordinances related to the operation of a swimming pool;
 - (b) maintain the pool in a safe manner; and
 - (c) when not in use, cover the pool with a commercially-made safety enclosure that is installed according to the manufacturer's instructions, or enclose the pool within at least a four-foot-high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises.
 - (10) The provider shall maintain buildings and outdoor areas in good repair and safe condition including:
 - (a) ceilings, walls, and floor coverings;
 - (b) lighting, bathroom, and other fixtures;
 - (c) draperies, blinds, and other window coverings;
 - (d) indoor and outdoor play equipment;
 - (e) furniture, toys, and materials accessible to the children; and
 - (f) entrances, exits, steps, and walkways including keeping them free of ice, snow, and other hazards.
 - (11) The provider shall ensure that accessible raised decks or balconies that are five feet or higher, and open stairwells that are five feet or deeper have protective barriers that are at least three feet high.
 - (12) If the facility is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, the department may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with the requirements under Rule R381-40, except when:
 - (a) there is a separate entrance for the child care program;
 - (b) there are no connecting interior doorways that can be used by unauthorized individuals; and
 - (c) there is no shared access to the outdoor area used for child care.

R381-40-10. Capacity and Ratio.

- (1) The department may limit the maximum allowed capacity for a child care facility based on local ordinances.
- (2) The provider shall ensure that the number of children in care at any given time does not exceed the capacity identified on the license.
- (3) The department may determine the total capacity based on the number of rooms and the ages of children cared for in those rooms.
- (4) As listed in Table 1 for single-age groups of children, the provider shall:
 - (a) maintain at least the number of caregivers; and
 - (b) not exceed the number of children in the caregiver-to-child ratio per room.

TABLE 1 Caregiver-to-child Ratios		
Number of Caregivers	Ages of Children	Number of Children
At least 1	2 years old	7
At least 1	3 years old	12
At least 1	4 years old	15
At least 1	5 years old	20

- (5) As listed in Tables 2 **through 4** for mixed-age groups of children, the provider shall:
 - (a) maintain at least the number of caregivers; and
 - (b) not exceed the number of children in the caregiver-to-child ratio per room.

TABLE 2 Two-to-Five-Year-Olds		
Number of Caregivers Required	Ages of children	Number of Children Present
At least 1	2 years old	1-6
	3, 4, and 5 years old	1-10
Maximum Total of Children in the Room: 11		

TABLE 3 Three-to-Five-Year-Olds		
Number of Caregivers Required	Ages of children	Number of Children Present
At least 1	3 years old	1-11
	4 years old	1-14
	5 years old	1-14
Maximum Total of Children in the Room: 16		

TABLE 4 Four-to-Five-Year-Olds		
Number of Caregivers Required	Ages of children	Number of Children Present
At least 1	4 years old	1-14
	5 years old	1-17
Maximum Total of Children in the Room: 18		

- (6) The provider may exclude the provider's or an employee's child age four years or older from the caregiver-to-child ratio when the parent of the child is working at the facility.
- (7) The provider may include caregivers, student interns who are registered in a high school or college child care course, and volunteers who are 16 years old or older in the caregiver-to-child ratio.

R381-40-11. Child Supervision and Security.

- (1) The provider shall ensure that caregivers provide and maintain active supervision of each child, including:
 - (a) the caregiver is physically present in the room or area with the children;
 - (b) caregivers know the number of children in their care at any time;
 - (c) caregivers' attention is focused on the children and not on caregivers' personal interests;
 - (d) caregivers are aware of the entire group of children even when interacting with a smaller group or an individual child; and
 - (e) caregivers position themselves so each child in their assigned group is actively supervised.
- (2) The provider shall ensure that staff and household members who are 16 or 17 years old only have unsupervised contact with any child in care, including during offsite activities and transportation when:
 - (a) they are left unsupervised for no more than two consecutive hours per

- group;
 - (b) the director or the director designee is physically present and available as needed; and
 - (c) they are not volunteers.
- (3) The provider shall ensure that staff, volunteers, and household members who are younger than 16 years old are not assigned to care for or supervise any child in care.
- (4) The provider shall ensure that student interns who are registered and participating in a high school or college child care course and guests do not have unsupervised contact with any child in care, including during offsite activities and transportation.
- (5) The provider shall ensure that parents of children in care do not have unsupervised contact with any child in care, except with their own children.
- (6) The provider shall ensure that parents have access to their child and the areas used to care for their child when their child is in care.
- (7) To maintain security and supervision of children, the provider shall ensure that:
 - (a) each child is signed in and out **in accordance with this section**;
 - (b) only parents or persons with written authorization from the parent may sign-out a child;
 - (c) photo identification is required if the individual signing the child in or out is unknown to the provider;
 - (d) persons signing children in and out use identifiers, **including a** signature, initials, or electronic code; and
 - (e) the sign-in and sign-out records include the date and time each child arrives and leaves.
- (8) In an emergency, the provider shall accept the parent's verbal authorization to release a child if the provider can confirm the identity of:
 - (a) the person giving verbal authorization; and
 - (b) the person picking up the child.
- (9) The provider shall ensure that a six-week record of each child's daily attendance, including sign-in and sign-out records, is kept on-site for review by the department.

R381-40-12. Child Guidance and Interaction.

- (1) The provider shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.
- (2) The provider shall inform parents, children, and those who interact with the children of the program's behavioral expectations and how any misbehavior will be handled.
- (3) The provider shall ensure that individuals who interact with the children guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.
- (4) The provider shall ensure that caregivers use gentle, passive restraint with children only when it is needed to protect children from injuring themselves or others, or to stop them from destroying property.
- (5) The provider shall ensure that interactions with the children do not include:
 - (a) any form of corporal punishment or any action that produces physical pain or discomfort **including** hitting, spanking, shaking, biting, or pinching;

- (b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint;
 - (c) shouting at children;
 - (d) any form of emotional abuse;
 - (e) forcing or withholding food, rest, or toileting; or
 - (f) confining a child in a closet, locked room, or other enclosure **including** a box, cupboard, or cage.
- (6) Any individual who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in **Section 80-2-602**.

R381-40-13. Child Safety and Injury Prevention.

- (1) The provider shall ensure **that children and staff use** the building, outdoor area, toys, and equipment **safely and as intended by the manufacturer to prevent injury to children.**
- (2) The provider shall ensure that poisonous and harmful plants are inaccessible to children.
- (3) The provider shall ensure that sharp objects, edges, corners, or points that could cut or puncture skin are inaccessible to children.
- (4) The provider shall ensure that choking hazards are inaccessible to children younger than three years old.
- (5) The provider shall ensure that strangulation hazards **including** ropes, cords, chains, and wires attached to a structure and long enough to encircle a child's neck are inaccessible to children.
- (6) The provider shall ensure that tripping hazards **including** unsecured flooring, rugs with curled edges, or cords in walkways are inaccessible to children.
- (7) The provider shall ensure that empty plastic bags large enough for a child's head to fit inside, latex gloves, and balloons are inaccessible to children younger than five years old.
- (8) The provider shall ensure that standing water that measures two inches or deeper and five by five inches or greater in diameter is inaccessible to children.
- (9) The provider shall ensure that toxic or hazardous chemicals **including** cleaners, insecticides, lawn products, and flammable, corrosive, and reactive materials are:
 - (a) inaccessible to children;
 - (b) used according to manufacturer instructions;
 - (c) stored in containers labeled with the contents of the container; and
 - (d) disposed of properly.
- (10) The provider shall ensure that the following items are inaccessible to children:
 - (a) matches or cigarette lighters;
 - (b) open flames;
 - (c) hot wax or other hot substances; and
 - (d) when in use, portable space heaters, wood burning stoves, and fireplaces.
- (11) The provider shall ensure that the following items are inaccessible to children:
 - (a) live electrical wires; and
 - (b) for children younger than five years old, electrical outlets and surge

- protectors without protective caps or safety devices when not in use.
- (12) Unless used and stored as allowed by **any state or federal law**, the provider shall ensure that firearms **including** guns, muzzleloaders, rifles, shotguns, hand guns, pistols, and automatic guns are:
 - (a) locked in a cabinet or area using a key, combination lock, or fingerprint lock; and
 - (b) stored unloaded and separate from ammunition.
 - (13) The provider shall ensure that weapons **including** paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace are inaccessible to children.
 - (14) The provider shall ensure that alcohol, illegal substances, and sexually explicit material are inaccessible, and not used on the premises, during offsite activities, or in program vehicles any time a child is in care.
 - (15) If there is an outdoor area used by the children, the provider shall ensure that an outdoor source of drinking water, **including** individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain is available to each child when the outside temperature is 75 degrees or higher.
 - (16) The provider shall ensure that areas accessible to children are free of heavy or unstable objects that children could pull down on themselves, **including** furniture, unsecured televisions, and standing ladders.
 - (17) The provider shall ensure that hot water accessible to children does not exceed 120 degrees Fahrenheit.
 - (18) The provider shall ensure that tobacco, e-cigarettes, e-juice, e-liquids, and similar products are inaccessible and, in compliance with **Title 26, Chapter 38, Utah Indoor Clean Air Act, are not** used:
 - (a) in the facility or any other building when a child is in care;
 - (b) in any vehicle that is being used to transport a child in care;
 - (c) within 25 feet of any entrance to the facility or other building occupied by a child in care; or
 - (d) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care.

R381-40-14. Emergency Preparedness and Response.

- (1) The provider shall **develop and follow** a written emergency preparedness, response, and recovery plan that:
 - (a) includes procedures for evacuation, relocation, shelter in place, lockdown, communication with and reunification of families, and continuity of operations;
 - (b) includes procedures for accommodations for children with disabilities, and children with chronic medical conditions;
 - (c) **includes instructions to follow in case of an allergy or serious reaction to food or any other trigger that may affect the child's health;**
 - (d) is available for review by parents, staff, and the department during business hours; and
 - (e) is followed if an emergency happens, unless otherwise instructed by emergency personnel.
- (2) The provider shall post the facility's street address and emergency numbers, including at least fire, police, and poison control, near each telephone in the facility or in an area clearly visible to anyone needing the information.
- (3) The provider shall keep first aid supplies in the facility, including at least antiseptic, bandages, and tweezers.

- (4) The provider shall conduct fire evacuation drills at least quarterly and make sure drills include a complete exit of each child, staff, and volunteer from the building.
- (5) The provider shall conduct drills for disasters other than fires at least once every **six** months.
- (6) The provider shall give parents a written report of every incident, accident, or injury involving their child.
- (7) If a child is injured and the injury appears serious but not life-threatening, the provider shall contact the child's parent immediately.
- (8) If a life-threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb happens, the provider shall:
 - (a) call emergency personnel immediately;
 - (b) contact the parent after emergency personnel are called; and
 - (c) if the parent cannot be reached, try to contact the child's emergency contact individual.
- (9) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall:
 - (a) submit a completed accident report form to the department within the next business day of the incident; or
 - (b) contact the department within the next business day and submit a completed accident report form within five business days of the incident.
- (10) The provider shall keep a six-week record of each incident, accident, and injury report on-site for review by the department.

R381-40-15. Health and Infection Control.

- (1) The provider shall keep the building, furnishings, equipment, and outdoor area clean and sanitary including:
 - (a) walls and flooring free of spills, dirt, and grime;
 - (b) areas and equipment used for the storage, preparation, and service of food;
 - (c) surfaces free of rotting food or a build-up of food;
 - (d) the building and grounds free of a build-up of litter, trash, and garbage;
 - (e) frequently touched surfaces, including doorknobs and light switches; and
 - (f) the facility free of animal feces.
- (2) The provider shall take safe and effective measures to prevent and eliminate the presence of insects, rodents, and other pests.
- (3) The provider shall ensure that fabric toys and items **including** stuffed animals, cloth dolls, pillow covers, and dress-up clothes are machine washable and washed weekly, and as needed.
- (4) The provider shall clean and sanitize any toys and materials used by children:
 - (a) at least once a week or more often if needed; and
 - (b) after being contaminated by a body fluid.
- (5) The provider shall ensure that water play tables or tubs are cleaned and sanitized daily, if used by the children.
- (6) The provider shall ensure that **staff clean and sanitize** bathroom surfaces including toilets, sinks, faucets, and counters.
- (7) The provider shall ensure that toilet paper is accessible to children and kept in a dispenser.

- (8) The provider shall post handwashing procedures that are readily visible from each handwashing sink and shall ensure that the procedures are followed.
- (9) The provider shall ensure that staff and volunteers wash their hands thoroughly with liquid soap and running water at required times including:
 - (a) upon arrival;
 - (b) after using the toilet or helping a child use the toilet;
 - (c) after contact with a body fluid;
 - (d) after cleaning up or taking out garbage;
 - (e) after diapering a child;
 - (f) before administering medications to children;
 - (g) before and after eating meals and snacks or feeding a child; and
 - (h) when coming in from outdoors.
- (10) The provider shall ensure that caregivers teach children how to wash their hands thoroughly and oversee handwashing when possible.
- (11) The provider shall ensure that children wash their hands thoroughly with liquid soap and running water at required times including:
 - (a) upon arrival;
 - (b) after using the toilet;
 - (c) after contact with a body fluid;
 - (d) before using a water play table or tub;
 - (e) before eating a snack; and
 - (f) when coming in from outdoors.
- (12) The provider shall ensure that only single-use towels from a covered dispenser or an electric hand dryer is used to dry hands.
- (13) The provider shall ensure that personal hygiene items, including toothbrushes, combs, and hair accessories, are not shared and are stored so they do not touch each other, or they are sanitized between each use.
- (14) The provider shall ensure the prompt change of a child's clothing if the child has a toileting accident.
- (15) The provider shall ensure that children's clothing that is wet or soiled from a body fluid is:
 - (a) not rinsed or washed at the facility;
 - (b) placed in a leakproof container that is labeled with the child's name; and
 - (c) returned to the parent; or
 - (d) thrown away with parental consent.
- (16) The provider shall ensure that staff take precautions when cleaning floors, furniture, and other surfaces contaminated by blood, urine, feces, or vomit. Except for toileting accidents, staff shall:
 - (a) wear waterproof gloves;
 - (b) clean the surface using a detergent solution;
 - (c) rinse the surface with clean water;
 - (d) sanitize the surface;
 - (e) throw away in a leakproof plastic bag the disposable materials, including paper towels, that were used to clean up the body fluid;
 - (f) wash and sanitize any non-disposable materials used to clean up the body fluid, including cleaning cloths, mops, or reusable rubber gloves, before reusing them; and
 - (g) wash their hands after cleaning up the body fluid.

- (17) The provider shall ensure that a child who is ill with an infectious disease is not cared for at the facility except when the child shows signs of illness after arriving at the facility.
- (18) If a child becomes ill while in care:
 - (a) the provider shall contact the child's parent or, if the parent cannot be reached, an individual listed as the emergency contact to immediately pick up the child; and
 - (b) if the child is ill with an infectious disease, the provider shall make the child comfortable in a safe, supervised area that is separated from the other children until the parent arrives.
- (19) If any child or employee has an infectious disease, an unusual or serious illness, or a sudden onset of an illness, the provider shall notify the local health department on the day the provider discovers the illness
- (20) If a staff member or child has an infectious disease or parasite, the provider shall post a notice at the facility that:
 - (a) does not disclose any personal identifiable information;
 - (b) is posted in a conspicuous place where it can be seen by parents;
 - (c) is posted and dated on the same day that the disease or parasite is discovered; and
 - (d) remains posted for at least five business days.

R381-40-16. Food and Nutrition.

- (1) The provider shall ensure that each child is offered a snack when services are provided for three or more hours.
- (2) The provider shall ensure that the person who serves snacks to children:
 - (a) is aware of the children in their assigned group who have food allergies or sensitivities; and
 - (b) ensures that the children are not served the snack to which they are allergic or sensitive.
- (3) The provider shall ensure that food and drink brought in by parents for their child's use is:
 - (a) labeled with the child's name;
 - (b) refrigerated if needed; and
 - (c) consumed only by that child.

R381-40-17. Medications.

- (1) The provider shall lock nonrefrigerated medications or store them at least 48 inches above the floor.
- (2) The provider shall lock refrigerated medications or store them at least 36 inches above the floor and, if liquid, store them in a separate leakproof container.
- (3) If parents supply any over-the-counter or prescription medications, the provider shall ensure those medications:
 - (a) are labeled with the child's full name;
 - (b) are stored in the original or pharmacy container;
 - (c) have the original label; and
 - (d) have child safety caps.
- (4) The provider shall obtain a written medication permission form completed and signed by the parent before administering any medication supplied by the parent for their child.

- (5) The provider shall ensure that the medication permission form includes at least:
 - (a) the name of the child;
 - (b) the name of the medication;
 - (c) written instructions for administration; and
 - (d) the parent signature and the date signed.
- (6) The provider shall ensure that instructions for administering the medication include at least:
 - (a) the dosage;
 - (b) how the medication will be given;
 - (c) the times and dates to administer the medication; and
 - (d) the disease or condition being treated.
- (7) If the provider supplies an over-the-counter medication for children's use, the provider shall ensure that **no staff administer** the medication **to any child** without previous parental consent for each instance it is given. The provider shall ensure that the consent is:
 - (a) written; or
 - (b) verbal, if the date and time of the consent is documented and signed by the parent upon picking up their child.
- (8) The provider shall ensure that the staff administering the medication:
 - (a) washes their hands;
 - (b) check the medication label to confirm the child's name if the parent supplied the medication;
 - (c) checks the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer; and
 - (d) administers the medication.
- (9) The provider shall ensure that immediately after administering a medication, the staff giving the medication records the following information:
 - (a) the date, time, and dosage of the medication given;
 - (b) any error in administering the medication or adverse reactions; and
 - (c) their signature or initials.
- (10) The provider shall report to the parent a child's adverse reaction to a medication or error in administration of the medication immediately upon recognizing the reaction or error, or after notifying emergency personnel if the reaction is life-threatening.
- (11) The provider shall notify the parent before the **scheduled medication dosage** to a child if the provider chooses not to administer medication as instructed by the parent.
- (12) The provider shall keep a six-week record of medication permission and administration forms on-site for review by the department.

R381-40-18. Activities.

- (1) The provider shall offer daily activities that support each child's healthy physical, social, emotional, cognitive, and language development.
- (2) The provider shall ensure that physical development activities include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every 2 hours children spend in the program.
- (3) The provider shall post a daily schedule that includes activities that support children's healthy development.

- (4) The provider shall ensure that toys, materials, and equipment needed to support children's healthy development are available to the children.
- (5) Except for occasional special events, the provider shall ensure that the children's primary screen time activity on media **including** television, cell phones, tablets, and computers is limited to 30 minutes per day, or 2-1/2 hours per week.
- (6) If **the provider offers** swimming activities or if wading pools are used, the provider shall ensure that:
 - (a) the parent gives permission before their child in care uses the pool;
 - (b) caregivers stay at the pool supervising when a child is in the pool or has access to the pool, and when an accessible pool has water in it;
 - (c) diapered children wear swim diapers when they are in the pool;
 - (d) wading pools are emptied and sanitized after use by each group of children;
 - (e) if the pool is over four feet deep, there is a lifeguard on duty who is certified by the Red Cross or other approved certification program any time children have access to the pool; and
 - (f) lifeguards and pool personnel do not count toward the caregiver-to-child ratio.
- (7) If **the provider offers** offsite activities, the provider shall ensure that:
 - (a) the parent gives written consent before each activity;
 - (b) the required caregiver-to-child ratio and supervision are maintained during the entire activity;
 - (c) first aid supplies, including at least antiseptic, bandages, and tweezers are available;
 - (d) children wear or carry with them the name and phone number of the program;
 - (e) children's names are not used on name tags, t-shirts, or in other visible ways; and
 - (f) there is a way for caregivers and children to wash their hands with soap and water, or with wet wipes and hand sanitizer if there is no source of running water.
- (8) The provider shall ensure that caregivers take the written emergency information and releases for each child in the group on any offsite activity, and that the information includes:
 - (a) the child's name;
 - (b) the parent's name and phone number;
 - (c) the name and phone number of a person to notify in case of an emergency if the parent cannot be contacted;
 - (d) the names of people authorized by the parents to pick up the child; and
 - (e) current emergency medical treatment and emergency medical transportation releases.

R381-40-19. Play Equipment.

- (1) The provider shall ensure that children using play equipment use it safely and **as** intended by the manufacturer.
- (2) The provider shall ensure that stationary play equipment has a surrounding use zone that extends from the outermost edge of the equipment, and with the exception of swings, that stationary play equipment has at least a six-foot use zone if any designated play surface is higher than 20 inches.

- (3) The provider shall ensure that the use zone in the front and rear of a single-axis, enclosed swing extends at least twice the distance of the swing pivot point to the swing seat.
- (4) The provider shall ensure that the use zone in the front and rear of a single-axis swing extends at least twice the distance of the swing pivot point to the ground.
- (5) The provider shall ensure that the use zone for a multi-axis swing, including a tire swing, extends at least the measurement of the suspending rope or chain plus six feet.
- (6) The provider shall ensure that the use zone for a merry-go-round extends at least six feet in all directions from its outermost edge.
- (7) The provider shall ensure that the use zone for a spring rocker extends at least six feet from the outermost edge of the rocker when at rest if the seat is higher than 20 inches.
- (8) The provider shall ensure that the following use zones do not overlap the use zone of any other piece of play equipment:
 - (a) the use zone in front of a slide;
 - (b) the use zone in the front and rear of any single-axis swing, including a single-axis enclosed swing;
 - (c) the use zone of a multi-axis swing; and
 - (d) the use zone of a merry-go-round if the platform diameter measures 20 inches or more.
- (9) Unless prohibited under Subsection R381-40-19(8), the provider shall ensure that the use zones of play equipment only overlap when there is at least six feet between the pieces of equipment if the designated play surface is 30 inches or lower, or there is at least nine feet between the pieces of equipment if the designated play surface is higher than 30 inches.
- (10) The provider shall ensure that, when in use, stationary play equipment is not placed on a hard surface including concrete, asphalt, dirt, or the bare floor.
- (11) The provider shall ensure that protective cushioning covers the entire surface of each required use zone and its depth or thickness is determined by the highest designated play surface of the equipment.
- (12) If the provider uses sand, gravel, or shredded tires as protective cushioning, the provider shall ensure that the depth of the material meets the guidelines in Table 5, and:
 - (a) that the cushioning is periodically checked for compaction and loosened to the depth listed in Table 5 if compacted; and
 - (b) if the material cannot be loosened due to extreme weather conditions, not allow children to play on the equipment until the material can be loosened to the required depth.

TABLE 5					
Depths of Protective Cushioning Required for sand, Gravel, and Shredded Tires and Rubber Products					
Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Fine sand	Coarse Sand	Fine Gravel	Medium Gravel	Shredded Tires and Rubber Products
Up to 5' high	6"	6"	6"	6"	6"
Over 5' up to 6'	6"	9"	6"	9"	6"
Over 6' up to 9'	9"	Not allowed	9"	Not allowed	6"
Over 9' up to 10'	Not allowed	Not allowed	9"	Not allowed	6"
Over 10' up to 12'	Not allowed	Not allowed	Not allowed	Not allowed	6"

- (13) If the provider uses shredded wood products as protective cushioning, the provider shall:
- (a) keep on-site for review by the department documentation from the manufacturer that the wood product is protective cushioning;
 - (b) ensure there is adequate drainage under the material; and
 - (c) ensure the depth of the shredded wood meets the guidelines in Table 6.

TABLE 6			
Depths of Protective Cushioning Required for Shredded Wood Products			
Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Engineered Wood fibers	Wood Chips	Double Shredded Bark Mulch
Up to 6' high	6"	6"	6"
Over 6' up to 7'	9"	6"	9"
Over 7' up to 11'	9"	9"	9"
Over 11'	9"	Not allowed	Not allowed

- (14) If the provider uses a unitary cushioning, the provider shall maintain on-site for review by the department documentation from the manufacturer that the material is cushioning for playgrounds.
- (15) If the provider uses a unitary cushioning, the provider shall ensure that the cushioning material is securely installed, so that it cannot become displaced when children jump, run, walk, land, or move on it, or be moved by children picking it up.
- (16) The provider shall ensure that a play equipment platform that is more than 30 inches above the floor or ground has a protective barrier that is at least 29 inches high.
- (17) The provider shall ensure that there is no gap greater than 3-1/2 inches in or under a required protective barrier on a play equipment platform.
- (18) The provider shall ensure that stationary play equipment is stable or securely anchored.
- (19) The provider shall ensure that there are no trampolines on the premises that are accessible to any child in care.
- (20) The provider shall ensure that there are no entrapment hazards on or within the use zone of any piece of stationary play equipment.
- (21) The provider shall ensure that there are no strangulation hazards on or within the use zone of any piece of stationary play equipment.
- (22) The provider shall ensure that there are no crush, shearing, or sharp edge hazards on or within the use zone of any piece of stationary play equipment.
- (23) The provider shall ensure that there are no tripping hazards including concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.
- (24) For preschool programs operating before January 1, 2021 that need to make compliance modifications to existing play equipment, the department may facilitate a phase-in schedule for up to five years from the initial inspection.

R381-40-20. Transportation.

- (1) For each child that the licensee transports, the provider shall obtain a transportation permission form:
 - (a) signed by the parent; and
 - (b) on-site for review by the department.
- (2) The provider shall ensure that each vehicle used for transporting children:
 - (a) is enclosed with a roof or top;
 - (b) is equipped with safety restraints;
 - (c) has a current vehicle registration;
 - (d) is maintained in a safe and clean condition; and
 - (e) contains first aid supplies, including at least antiseptic, bandages, and tweezers.
- (3) The provider shall ensure that the safety restraints in each vehicle that transports children are:
 - (a) appropriate for the age and size of each child who is transported, as required by Utah law;
 - (b) properly installed; and
 - (c) in safe condition and working order.
- (4) The provider shall ensure that the driver of each vehicle who is transporting children:
 - (a) is at least 18 years old;
 - (b) has and carries with them a current, valid driver's license for the type

- of vehicle being driven;
 - (c) has with them the emergency contact information for each child being transported;
 - (d) ensures that each child being transported is in an individual safety restraint that is used according to Utah law;
 - (e) ensures that the inside vehicle temperature is between 60-85 degrees Fahrenheit;
 - (f) never leaves a child in the vehicle unattended by an adult;
 - (g) ensures that children stay seated while the vehicle is moving;
 - (h) never leaves the keys in the ignition when not in the driver's seat; and
 - (i) ensures that the vehicle is locked during transport.
- (5) If the provider walks or uses public transportation to transport children to or from the facility, the provider shall ensure that:
- (a) each child being transported has a completed transportation permission form signed by their parent;
 - (b) a caregiver goes with the children and actively supervises the children;
 - (c) the caregiver-to-child ratio is maintained; and
 - (d) a caregiver with the children has emergency contact information and releases for the children being transported.
- (6) The provider shall:
- (a) have transport liability insurance; or
 - (b) inform parents in writing that the provider does not have transport liability insurance.

R381-40-21. Animals.

- (1) The provider shall inform parents of the kinds of animals allowed at the facility.
- (2) The provider shall ensure that there is no animal on the premises that:
 - (a) is naturally aggressive;
 - (b) has a history of dangerous, attacking, or aggressive behavior; or
 - (c) has a history of biting even one individual.
- (3) The provider shall ensure that animals at the facility are clean and free of obvious disease or health problems that could adversely affect children.
- (4) The provider shall ensure that there is no animal or animal equipment in food preparation or eating areas.
- (5) The provider shall ensure that children do not assist with the cleaning of animals or animal cages, pens, or equipment.
- (6) The provider shall ensure that children and staff wash their hands immediately after playing with or touching reptiles and amphibians.
- (7) The provider shall ensure that dogs, cats, and ferrets that the facility houses have current rabies vaccinations.
- (8) The provider shall keep current animal vaccination records on-site for review by the department.

R381-40-22. Diapering.

- (1) This section applies only to a provider that accepts children who wear diapers.
- (2) The provider shall post diapering procedures at each diapering station and ensure that each staff member follows the procedures.
- (3) The provider shall ensure that each child's diaper is:
 - (a) checked at least once every two hours; and

- (b) promptly changed when wet or soiled.
- (4) The provider shall ensure that caregivers change children's diapers at a diapering station and not changed on surfaces used for any other purpose.
- (5) The provider shall ensure that the diapering surface is smooth, waterproof, and in good repair.
- (6) The provider shall ensure that caregivers do not leave children unattended on the diapering surface.
- (7) The provider shall ensure that caregivers clean and sanitize the diapering surface after each diaper change, or use a disposable, waterproof diapering surface that is thrown away after each diaper change.
- (8) The provider shall ensure that caregivers wash their hands after each diaper change.
- (9) The provider shall ensure that caregivers place wet and soiled disposable diapers:
 - (a) in a container that has a disposable plastic lining and a tight-fitting lid;
 - (b) directly in an outdoor garbage container that has a tight-fitting lid; or
 - (c) in a container that is inaccessible to children.
- (10) The provider shall ensure that indoor containers where wet and soiled diapers are placed are cleaned and sanitized each day.

KEY: child care facilities, child care, commercial preschool programs

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