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Title 20. Public Health and Welfare
Chapter XLV. Office of Early Childhood, Department of Education Subchapter B. Licensing
Part #. Minimum Licensing Rules for Child Care Facilities

Subpart 1. Definitions

20 CAR § #-101. Definitions

As used in this part:

- (1) "Act" refers to the Childcare Facility Licensing Act, Arkansas Code § 20-78- 201 et seq., as amended
- (2) "Accommodation" is an approval from the Child Care Licensing Unit for a facility to demonstrate compliance with a licensing requirement in such a way that meets the standard for approval and intent of the licensing requirement but differs from the traditional interpretation of compliance with the requirement.
- (3) "Arkansas State Criminal History Check" is a statewide criminal record check conducted by the Identification Bureau of the Arkansas State Police.
- (4) "Board member" refers to an individual who serves on a governing body of a child care facility.
- (5) "Child care center" is any child care facility conducted under public or private auspices on a profit or nonprofit basis providing direct care and protection for children in a nonresidential physical location
- (6) "Child care facility" means any facility defined by Arkansas Code § 20-78-202(2).
(A) In the context of this part, a child care facility refers to both child care centers and licensed child care family homes
- (7) "Child Care Licensing Unit" is the unit within the Office of Early Childhood of the Arkansas Department of Education that inspects and investigates any proposed or operating child care facility and any personnel connected with the facility to determine if the facility will be or is being operated in accordance with the:
(A) Childcare Facility Licensing Act, Arkansas Code § 20-78-201 et seq and
(B) Arkansas Minimum Licensing Rules for Child Care Facilities as defined in this part
- (8) "Child Maltreatment Central Registry check" is a check of the Arkansas Child Maltreatment Central Registry for a Child Maltreatment Central Registry for any record of any founded child abuse or neglect or maltreatment
- (9) "Class A requirements" refers to a classification of a subset of the Arkansas Minimum Licensing Rules for Child Care Facilities as defined in this part
(A) Class A requirements reflect the standards that are most critical for children's health and safety and are identified in this part
(B) "Class B requirements" are the remaining subset of the Arkansas Minimum Licensing Rules for Child Care that are not within the Class A classification
(C) Class A and Class B requirements classifications form the foundation for the licensing compliance structure as defined in this part
- (10) "Comprehensive review" is a type of review conducted by the Child Care Licensing Unit to inspect and investigate child care facility compliance Class A and Class B requirements
- (11) "Criminal record check" means a statewide criminal **record** check conducted by the Identification Bureau of the Division of Arkansas State Police;

Commented [AL1]: Note: I believe OEC is moving away away from the language "background check" and instead using "regulatory check," which might mean this needs to be revised.

- (12) "Criminal Federal Bureau of Investigation check" means a nationwide criminal record check conducted by the Federal Bureau of Investigation that conforms to the applicable federal standards
- (13) "Department" means the Arkansas Department of Education
- (14) "Direct care staff" is the job role of individuals in a child care facility who have routine contact with children, directly care for children, and are counted toward the facility's adult-to-child ratio
 - (A) Directors/operators, site supervisors, teachers, substitute teachers, and support staff shall be considered direct care staff
 - (B) Any other adults present at the child care facility are considered direct care staff when they serve these job functions and any relevant requirements shall apply
- (15) "Emergency contact" is an individual designated by a licensed child care family home to provide temporary supervision to children in circumstances when the licensee/owner or director/operator cannot be present due to an unexpected emergency
- (16) "Evening care" refers to child care services provided between 7:00PM and 11:59PM
- (17) "Full compliance" refers to a child care facility that has demonstrated compliance with all Class A and Class B licensing requirements
- (18) "High compliance" refers to a child care facility that, for the past one (1) year:
 - (A) Maintained a regular license status or church-operated exemption
 - (B) Had no founded licensing or child maltreatment complaints
 - (C) Remained in substantial compliance with minimum licensing requirements
 - (D) Was not on a Corrective Action Agreement
 - (E) Was designated Better Beginnings Level 4-6
- (19) "Licensed child care family home" is a child care facility licensed by the State of Arkansas under public, private, or personal auspices on a profit or nonprofit basis providing direct care and protection for children in:
 - (A) A licensee/owner's own family residence
 - (B) Some other suitable family-type residence.
- (20) "Licensee" or "Owner" means the individual or entity that holds a license or approval for church-operated exemption from the State of Arkansas for a child care center or a licensed child care family home.
 - (A) The licensee or owner is ultimately responsible for the health, safety, and care of children in facility care and facility compliance with child care licensing rules and/or terms of a facility's church-operated exemption.
 - (B) Licensees or owners of licensed child care family homes and child care centers can be an individual or an entity
- (21) "Licensing software" refers to the online communication, documentation, and process management platform used for child care facility licensing objectives and activities by the Office of Early Childhood, Child Care Licensing Unit, and child care facility licensees/owners
- (22) "Medical care plan" is a physical or digital written document that outlines a child's medical needs and the medical care or treatment the child should receive while under the care of a child care facility
 - (A) "Scheduled medical care plan" is medical care plan that involves medical care or treatment that is administered on a recurring or routine schedule or cadence
 - (B) "Emergent medical care plan" is medical care plan that involves medical care or treatment that is administered on an emergency basis in response to urgent or dire circumstances or needs

Commented [AL2]: Note: OEC's current definition of high compliance is based in (among other factors) Better Beginnings level.

- (23) "National Federal Bureau of Investigation (FBI) Check" means a nationwide criminal record check conducted by the FBI that conforms to the applicable federal standards and includes the taking of fingerprints.
- (24) "Night care" refers to child care services provided between 12AM and 5:59AM
- (25) "OEC" means the Office of Early Childhood within the Arkansas Department of Education
- (26) "Operator" or "Director" is the job role of an individual who oversees and has primary responsibility for the operation of a child care facility subject to licensing.
- (27) "Part-time care" refers to child care services provided no longer than four (4) hours per day or not to exceed a maximum of twenty (20) hours per week.
- (28) "Personnel" refers to any individual who is an employee and performs services under the direction of a child care facility
- (29) When used in this subpart, personnel refers to individuals in all job roles within a facility with the exception of emergency contacts, service providers, visitors, and volunteers
- (30) Across the job roles defined in this Section and used in this part, an individual at a facility may perform the functions of multiple job roles outside of their primary job role or the role for which they were hired; the requirements defined in this part apply to all individuals who are performing the functions of that role, regardless of primary job role or the role for which they were hired.
- (31) "Program" is defined as all activities that comprise the child's day at the center
- (32) "Related minor child" is a child under the age of eighteen (18) who is: (A) related by blood, marriage, or adoption or (B) a ward pursuant to a guardianship order issued by an Arkansas court of competent jurisdiction
- (33) "Risk assessment" is a type of licensing review conducted by the Child Care Licensing Unit to inspect and investigate child care facility compliance Class A licensing requirements
- (34) "Routine contact" is a measure that defines the amount of time an adult would need to be present children in a child care facility to indicate the adult has ongoing, continued engagement with children
 - (A) For the purposes of this part, routine contact is defined as twenty-four (24) hours over the course of a month
 - (B) Routine contact serves as a threshold that differentiates applicability of rules throughout this part
- (35) "School-age children" are children who are enrolled in kindergarten and above
- (36) "Service provider" is an individual or entity that offers technical or specialized as-needed or routine services or expertise directly to children that support the developmental, educational, therapeutic, or health needs of children
- (37) "Sick care" is a separate service providing care for children who are too sick to attend care as stated in 20 CAR § ~~601~~ but who do not exhibit any of the excludable diseases as defined in Administrative Policy 601B
- (38) "Site supervisor" is an individual who is designated to oversee the operation of a child care facility in the absence of the operator/director or licensee/owner
- (39) "Substantial compliance" in the context of this part refers to a child care facility that has demonstrated compliance with all Class A licensing requirements
- (40) "Substitute teacher" is the job role of an individual who temporarily assumes the duties of or takes the place of a teacher for a time period not to exceed two consecutive months
- (41) "Support staff" is the job role of individuals who:
 - (A) Have routine contact with children and are counted in a facility's adult-to-child ratio; and
 - (B) Assist teachers, substitute teachers, or director/operators in providing direct care for children

Commented [AL3]: Note: This reference will need to be updated when the part is given a number

- (42) "Swimming pool" means any pool of water in excess of twelve inches (12") deep excluding natural pools of water such as
 - (A) Lakes
 - (B) Ponds
 - (C) Rivers
- (43) "Teacher" is the job role of an individual who is responsible for the care and supervision of children in a group, has routine contact with children, provides direct care, and is counted toward the adult-to-child ratios for the facility
- (44) "Traditional care hours" refer the child care services provided between 6:00AM and 6:59PM
- (45) "Visitor" is an individual who is present at or provides services to a child care facility on a temporary or occasional basis but does not have routine contact with children, directly care for children, or count toward a facility's adult-to-child ratio
- (46) "Volunteer" is an uncompensated individual who is present at or provides services to a child care facility who does not count toward a facility's adult-to-child ratio

Subpart 2. Procedures

20 AR § #-200. Licensed child care facilities

- (a) This section defines the circumstances under which child care facilities are subject to:
 - (1) The provisions of the Childcare Facility Licensing Act, Arkansas Code § 20-78-201 et seq.
 - (2) Arkansas Minimum Licensing Rules for Child Care Facilities as defined in this part
- (b) **Child care centers**
 - (1) A child care center is subject that is open more than five (5) hours during any twenty-four (24) hour period or more than a total of ten (10) hours during a seven (7) day period is subject to:
 - (2) Those facilities meeting the above definitions but operating no more than three (3) weeks per calendar year are not required to comply with the licensing requirements
 - (3) A public or private school that operates a kindergarten (K5) in conjunction with grades one (1) and above, or for grades one (1) and above only and provides short-term custodial care, not to exceed twenty (20) hours weekly, prior to or following classes for those students, is not required to comply with licensing requirements for the short-term custodial care provided;
 - (4) For purposes of determining the need for a license, all care provided at the site of a licensed program is considered a part of the licensed program and therefore subject to licensing requirements, which includes:
 - (A) Separate buildings located on the same property
 - (B) Any other property under the same ownership.
- (c) **Child care family homes**
 - (1) A child care family home requires licensing when one (1) or more persons care for six (6) or more children from more than one (1) family at the same time
 - (2) A maximum of sixteen (16) children may be cared for with a child care family home license
 - (3) An individual or entity shall be eligible to hold only one (1) child care family home license, which shall be issued for one (1) location
 - (4) The child care family home owner's own preschool children shall be considered when determining the need for a license

- (A) The child care family home owner's own school-age children are not considered when determining the need for a license
- (5) Other children in the home who are not accompanied by a parent, whether pay is received for care or not:
 - (A) Are considered in determining the need for a license;
 - (B) Will be counted in the ratio after a license is obtained.
- (6) A child care family home that is not required to be licensed by this definition may voluntarily choose to apply for a license or for registration with the voluntary registry

20 AR § #-201. Approach to licensing

- (d) The Child Care Facility Licensing Act, Arkansas Code §§ 20-78-201 et seq., as amended, is the statutory authority for
 - (1) Licensing child care facilities
 - (2) Granting church-operated exemptions to child care facilities
- (e) Ark. Code Ann. § 20-78-209, defines those facilities that may apply for an exemption from obtaining a license to operate a child care facility and the process through which such exemption may be granted
 - (1) The facility must be operated by a church or group of churches and be exempt from the state income tax levied by Ark. Code Ann. § 26-561-101 et seq
 - (2) All requirements in this part apply to facilities with church-operated exemptions (COE) unless otherwise stated
- (f) The Child Care Facility Licensing Act, Arkansas Code § 20-78-201 et seq., created the Office of Early Childhood ("OEC") within the Arkansas Department of Education and designates OEC as the administrative agency responsible for administering the Act in accordance with this part.
- (g) In administering the Child Care Facility Licensing Act and the requirements in this part, OEC works in coordination with:
 - (1) Local and state health departments, fire departments, safety departments, and city planning agencies
 - (2) Boiler Inspection Division of the Arkansas Department of Labor
 - (3) Division of Children and Family Services of the Arkansas Department of Health and Human Services
- (h) With the review and approval of the Arkansas Early Childhood Commission, OEC shall publish and promulgate minimum licensing requirements
 - (1) The rules in this part are the minimum licensing requirements for child care facilities
 - (2) The minimum licensing requirements in this part shall be classified as follows:
 - (A) Class A requirements are standards that are essential to ensure the health and safety of children in care as identified
 - (B) Class B requirements are all other standards not identified as Class A requirements
 - (3) Operation of an unlicensed childcare facility shall be considered noncompliance with a Class A requirement. However, the definition of unlicensed childcare facility shall not be interpreted to include exempt childcare facilities as defined in § 20-78-209.
- (i) All licensed child care facilities shall remain in substantial compliance with minimum licensing requirements at all times
 - (1) Facilities in compliance with Class A and Class B licensing requirements are considered in full compliance with minimum licensing requirements

Commented [4]: Note: Class A and Class B requirements and the associated implications for compliance status are part of the tiered approach to licensing. The Class A/Class B classification system and the concept of substantial compliance originate in the Child Care Facilities Licensing Act.

- (2) Facilities in compliance with Class A licensing requirements are considered to be in substantial compliance with minimum licensing requirements
- (j) The Child Care Licensing Unit within OEC is responsible for monitoring and supporting facility compliance with the minimum licensing requirements
 - (1) Each child care facility shall be reviewed by the Child Care Licensing Unit through the processes defined in Section 205 to assess facility compliance with minimum licensing requirements
 - (2) Reviews conducted by the Child Care Licensing Unit for the purposes of determining facility compliance with minimum licensing requirements shall be classified as follows:
 - (A) Comprehensive review is a review of facility compliance with Class A and Class B licensing requirements
 - (B) Risk assessment is a review of facility compliance with Class A licensing requirements
 - (3) Facility licensee/owner or designee shall cooperate with Child Care Licensing Unit reviews of facility compliance with minimum licensing requirements
 - (4) Facility licensee/owner or designee that does not cooperate with the Child Care Licensing Unit reviews shall be considered out of substantial compliance with the minimum licensing requirements
- (k) Facilities that are not in substantial compliance may be issued any of the adverse actions to the facility license or COE status as defined in Section 206
- (l) Prior to the issuance of an adverse action, the Child Care Licensing Unit shall, in collaboration with the child care facility, follow the procedures for continued compliance defined in Section 205
- (m) Falsification, whether by statement or omission, of any submission to the Child Care Licensing Unit in service of demonstrating compliance with minimum licensing requirements may result in the facility being considered out of substantial compliance with the minimum licensing requirements
- (n) Any individual, and related parties, on the Department of Human Services State or Federal and, or, or Arkansas Department of Education exclusion list(s) pursuant to Participant Exclusion, 25 CAR pt. 30, shall not be eligible to be a licensee/owner, operator/director, site supervisor, or member of the board of directors of any licensed or church-operated exempt child care facility.
- (o) The Child Care Licensing Unit will notify the applicable federal agency at any time it becomes aware of or is advised of violations of any applicable federal laws

20 CAR § #-202. Application

- (a) To apply for a child care facility license as a new operation, the prospective child care facility licensee/owner shall:
 - (1) Secure approval from applicable State Fire Marshal, local fire marshal, state and local health department, and city zoning agency, as necessary
 - (2) Submit an electronic application for a child care facility license, signed by the prospective licensee/owner, as defined in **Administrative Policy 202A**
 - (3) **Verification** that all required regulatory checks, as described in Sections 302 and 303, have been initiated for the prospective licensee/owner and, as applicable, the director/operator(s)
 - (4) Schedule or complete boiler inspection through the Arkansas Department of Labor
- (b) To apply for a church-operated exemption as a new operation, the prospective child care facility licensee/owner shall:
 - (1) Secure approval from applicable State Fire Marshal, local fire marshal, state and local health department, and city zoning agency, as necessary

Commented [AL5]: Note: Please see the attached list of administrative policies.

Commented [6]: Note: Providers are unable to initiate background check results until they have submitted an application because they require a license application number to do so, which they won't receive until they submit the application. We propose a process that allows providers to get their license application number before submitting their entire application so that they can demonstrate verification that regulatory checks have been initiated during the application process. If that recommendation is not successful and providers are unable to initiate regulatory checks prior to submitting the application, this requirement will need to be moved to a condition of providing care after the application is submitted.

- (2) Submit an electronic application for a church-operated exemption, signed by the prospective licensee/owner, as defined in Administrative Policy 202B
- (3) Secure eligible results of Child Maltreatment Central Registry Check and Comprehensive Background Checks, as described in Subpart ## Section #, for the prospective licensee/owner and, as applicable, the director/operator(s)
- (4) Provide verification that the facility is operated by a church or group of churches
- (5) Provide verification of tax identification ownership by the church
- (6) Schedule or complete boiler inspection through the Arkansas Department of Labor

20 CAR § #-203. Approval for license or COE

- (a) A child care facility is eligible for approval of a license or COE if the facility:
 - (1) Has met all application requirements defined in Section 202
 - (2) Demonstrates compliance with physical location requirements, specifically:
 - (A) Demonstrates compliance with requirements as defined in Section 401 and Section 403
 - (B) Meets the space requirements as defined in Section 401(g)
- (b) The Child Care Licensing Unit shall make a decision regarding issuance of child care facility license or COE within sixty (60) business days after the prospective licensee/owner submits a complete application for license or COE
 - (1) (A) The sixty (60) day timeline shall begin at the point which a prospective licensee/owner's submitted application is considered complete by the Child Care Licensing Unit
 - (B) An application is considered complete if the facility has met all requirements defined in Section 202
 - (2) Within fourteen (14) days of application submission, the Child Care Licensing Unit shall assess facility compliance with physical location requirements as defined in Section 401 and Section 403
 - (3) Within thirty (30) days of application submission, the Child Care Licensing Unit shall notify a prospective licensee/owner of any issues that may jeopardize the application or that may cause the submitted application to be considered incomplete
 - (4) If the prospective licensee/owner does not correct the issues identified by CCLU or complete the application submission within sixty (60) days of notification of identified issues, the application shall be considered withdrawn by the applicant
- (c) Licensee/owners who are approved for a facility license or COE shall demonstrate the following prior to providing care under the issued license or COE:
 - (1) Requirements for liability insurance as defined in Section 304 are met
 - (2) The licensee/owner and/or director(s)/operator(s) has met the orientation training requirements as applicable
- (d)(1) A license for a child care facility or COE shall apply only to the licensee/owner and physical location stated on the issued license or COE
 - (2) If the licensee/owner or physical location of a child care facility is changed, then the license or COE for that child care facility shall automatically be revoked
- (e) A child care facility license or COE shall not be transferable from the licensee/owner or physical location on the issued license or COE to another licensee/owner or physical location unless under the following conditions:
 - (1) The Child Care Licensing Unit may permit the transfer of a facility regular license or COE to a different physical location if:
 - (A) The licensee/owner submits a written request for relocation of license or COE to the Child Care

Commented [7]: Note: This is an update to the timeline for approval that clarifies when providers will learn of issues and when they must respond.

Commented [8]: Note: Legal flagged the transfer options under (e)(1) and (e)(2) as issues with the Child Care Facilities Licensing Act. There was great interest in these options, however, among providers and specialists so we kept the content here if there is an opportunity to move forward.

Licensing Unit

- (B) There is no change in the licensee/owner named on the license or COE
 - (C) The facility named on the license or COE that would be transferred has maintained substantial compliance status for at least one (1) year prior to the request for transfer
 - (D) The proposed new physical location is in compliance with:
 - (i) All Class A requirements defined in Section 201
 - (ii) Space requirements as defined in Section 401(g)
 - (E) There are no other changes to the operations of the child care facility that might affect substantial compliance with any Class A requirements defined in the minimum licensing requirements
- (2) The Child Care Licensing Unit may permit the transfer of a regular facility license or COE from one licensee/owner to another licensee/owner if:
- (A) The current licensee/owner submit a written request, signed by the prospective licensee/owner, for transfer of ownership of a facility license or COE to the Child Care Licensing Unit
 - (B) There is no change in the physical location named on the facility license or COE
 - (C) The facility named on the license or COE that would be transferred has maintained high compliance status for at least two (2) years prior to the request for transfer
 - (D) All facility personnel are in substantial compliance with all Class A standards defined in Section 201
 - (E) There are no other changes to the operations of the child care facility that might affect substantial compliance with any Class A requirements defined in the minimum licensing requirements

20 CAR § #-204. New provisional license

- (a) If the Child Care Licensing Unit approves a prospective licensee/owner's license or COE application, the facility will be issued a new provisional license or COE
- (b) New provisional licenses shall be issued as follows:
 - (1) A new provisional license or COE shall not exceed twelve (12) months in length for licensees/owners who do not have an existing facility license or COE
 - (2) A new provisional license or COE shall not exceed three (3) months in length for licensees/owners who have an existing license or COE if all facilities licensed under the licensee/owner have met the following requirements for at least the past one (1) year:
 - (A) Maintained a regular license status or COE
 - (B) No founded licensing or child maltreatment complaints
 - (C) Remained in substantial compliance with minimum licensing requirements
- (c) In the first three (3) months following the issuance of a new provisional license or COE, the Child Care Licensing Unit shall:
 - (1) Conduct a risk assessment of the child care facility one (1) time per month
 - (2) Complete a comprehensive review of facility compliance with documentation requirements for any requirements that were not reviewed during the facility eligibility determination process defined in Section 203 or the risk assessment defined in (c)(1) of this section
- (d)(1) At the end of the new provisional license or COE, if a facility has remained in substantial compliance throughout the duration of the new provisional license or COE, the Child Care Licensing Unit shall issue the facility a regular license or COE

(2) At the end of a new provisional license or COE, if a facility has not remained in substantial compliance throughout the duration of the new provisional license or COE, the Child Care Licensing Unit shall, at its discretion,

- (A) Revoke the license;
- (B) Suspend the license; or
- (C) Issue a successive provisional license

20 CAR § #205. Conditions for maintaining license or COE

(a) The Child Care Licensing Unit shall monitor facility compliance with minimum licensing requirements.

(b) Facility compliance shall be reviewed for compliance through two methods:

- (1) On-site inspections of child care facilities
- (2) (A) Review of documentation
 - (B) The Child Care Licensing Unit shall conduct documentation review off-site through OEC's child care licensing software of all materials and documents shared by the licensee/owner or designee through this system
 - (C) Documentation not shared by the facility through OEC's child care licensing software shall be reviewed off-site or on-site, as determined by the facility licensee/owner or designee and Child Care Licensing Unit specialist

(c) For any noncompliances identified during a facility review, the Child Care Licensing Unit and the facility licensee/owner or designee shall collaboratively develop a support plan to be implemented to correct the identified noncompliances

(1) A facility support plan shall contain the information and developed through the processes defined in Administrative Policy 205A

(2) If a noncompliance is of imminent threat to the health or safety of children attending the child care facility, the support plan shall require the following:

- (A) The facility corrects the noncompliance with twenty-four (24) hours of the identification of the noncompliance
- (B) The Child Care Licensing Unit conducts an on-site review of the facility to confirm correction of the noncompliance within forty-eight (48) hours of the identification of the noncompliance

(d) The Child Care Licensing Unit shall conduct reviews of facility compliance on a regular cadence according to the facility's compliance history

(1) The Child Care Licensing Unit shall review facilities with a regular license two (2) times annually

- (A) One (1) review shall be a scheduled comprehensive review
- (B) One (1) monitoring review shall be an unscheduled risk assessment

(2) The Child Care Licensing Unit shall review high-compliance facilities with a regular license:

- (A) One (1) time every two (2) years using a scheduled comprehensive review
- (B) One (1) time annually using an unscheduled risk assessment

(3) This section does not prevent the Child Care Licensing Unit from reviewing facility compliance with requirements during regular or reviews or reviews as part of implementation of the facility's support plan as defined in Section 205 Subsection (c), corrective action agreement as defined in Section 205 Subsection (j), or conditions of suspension order as defined in Section 206 Subsection (g)

(e) In addition to reviews defined in (c) of this section, the Child Care Licensing Unit shall review facilities:

- (1) In response to needs for consultation or technical assistance as requested by the facility

Commented [9]: Note: The concept of a support plan formalizes what the Child Care Licensing Unit currently calls technical assistance.

Commented [10]: Note: Reviews for regular licenses have been reduced to twice annually. Annual reviews for high-compliance programs have remained the same.

licensee/owner or designee

(2) As part of a documented support plan as defined in Section 205 Subsection (c), corrective action agreement as defined in Section 205 Subsection (j), or conditions of suspension order as defined in Section 206 Subsection (g)

(3) As needed to investigate complaints involving possible violations of licensing requirements and/or child maltreatment

(f) Information gathered through facility reviews that demonstrate facility compliance with minimum licensing requirements shall be used as evidence for the purposes of Child Care Licensing Unit review if conducted by any the following:

- (1) Arkansas Department of Health
- (2) Local department of health
- (3) Arkansas State Fire Marshal
- (4) Local fire marshal
- (5) City zoning agencies
- (6) Arkansas Department of Labor
- (7) Arkansas Department of Child and Family Services
- (8) Arkansas Department of Education
- (9) Any other Child Care Licensing Unit designees

(g)(1) As part of any reviews conducted of the child care facility, the Child Care Licensing Unit shall document in writing findings from the compliance review

(2) For each minimum licensing requirement standard assessed during the review, the Child Care Licensing Unit shall document one of three possible findings:

- (A) Compliance with standard
- (B) Noncompliance with standard
- (C) Accommodation granted to the facility related to compliance with standard

(3) Review findings shall be documented with the information and through the process defined in Administrative Policy 205B

(h) The Child Care Licensing Unit shall grant a facility an accommodation under circumstances when the facility demonstrates compliance with a requirement in such a way that meets the standard for approval and intent of the requirement but differs from the traditional interpretation of compliance with the requirement

- (1) Accommodations differ from alternative compliance in breadth, scope, and process
- (2) A facility can request an accommodation at any point
- (3) Previously granted accommodations may be subject to review, modification, or revocation if new evidence or safety concerns arise
- (A) If a previously granted accommodation is modified or revoked, the facility shall have a reasonable timeframe to implement necessary corrections

(i) (1) When the facility review is complete:

- (A) The Child Care Licensing Unit shall share the written documentation of findings with the facility licensee/owner or designee in digital or physical copy; and
- (B) The facility licensee/owner or designee shall confirm in writing that the digital or physical written documentation of findings was received

(2) Written confirmation of receipt of the documentation of findings shall not:

- (A) Indicate that the facility licensee/owner or designee agrees with, approves, or has no questions about the review findings

Commented [11]: Note: This is formalizing a current practice and will require further alignment and coordination with other agencies to implement.

Commented [12]: Note: The concept of an accommodation formalizes a current Child Care Licensing Unit practice.

Commented [13]: Note: This subsection clarifies that when providers are asked to sign, they are signing that they received the information and nothing more.

- (B) Preclude the facility licensee/owner or designee from contesting or appealing the findings or requesting alternative compliance according to the processes defined in Section 208
- (j) (1) The Child Care Licensing Unit may initiate a corrective action agreement if a facility:
 - (A) Does not comply with the support plan(s) as defined in Section 205(c)
 - (B) Has a history of not being in substantial compliance with minimum licensing requirements
 - (C) Has founded complaints of child maltreatment or licensing violations
- (2) A corrective action agreement shall define the noncompliance(s) that warranted a corrective action agreement and the conditions under which the facility will be considered in substantial compliance
- (3) The corrective action agreement shall be developed according to the process and with the information defined in Administrative Policy 205C
- (4) Facilities that do not comply with corrective action agreements are at risk of adverse action as defined in Section 206
- (k)(1) When a child care facility has been found by the Child Care Licensing Unit to be in noncompliance with Class A requirements, notice shall be posted in the child care facility stating the found noncompliance
- (2) The facility shall post notice of noncompliance with Class A requirements following any appeal process as defined in Section 210

20 CAR § #-206. Adverse actions

- (a) A child care facility may be at risk of adverse action as defined in this section if a facility:
 - (1) Does not comply with the corrective action agreement(s) defined in Section 205 Subsection (j)
 - (2) There are founded complaints of child maltreatment
 - (3) Does not remain in substantial compliance with minimum licensing requirements
- (b) Facilities that are not in substantial compliance may be issued any of the following adverse actions as defined in this section:
 - (1) Denial of an application for a license or COE
 - (2) Suspension of a license or COE
 - (3) Revocation of a license or COE
 - (4) Issuance of a probationary license or probationary COE
- (c) If a license or COE is denied, revoked, or suspended, the denial, revocation, or suspension shall be effective when made
- (d) The Child Care Licensing Unit may deny a license or COE application if the prospective licensee/owner:
 - (1) Had a child care license revoked within the past twelve (12) months
 - (2) Has been convicted of or is under investigation of fraud in programs managed by any department in the state of Arkansas
 - (3) Is on or is related to any individual on the Federal and, or, or Arkansas Department of Education exclusion list(s) pursuant to Participant Exclusion, 25 CAR pt. 30
 - (4) Is considered ineligible according to the Child Maltreatment Registry and Criminal Background Check requirements defined in Section 302 and Section 303
 - (5) Does not meet the application requirements defined in Section 202
 - (6) Has not addressed the application issues identified by the Child Care Licensing Unit per the process defined in Section 203
- (e) The Child Care Licensing Unit may issue a **probationary license** or COE if the facility:
 - (1) Violated a corrective action agreement while holding a regular license or COE and agreed to a

Commented [14]: Note: Adverse actions are connected to noncompliance with Class A requirements, or when facilities are not in substantial compliance, per the Child Care Facilities Licensing Act.

It is currently unclear what actions or noncompliances warrant adverse action. We recommend the Child Care Licensing Unit align on those decisions and review this language accordingly.

- successive corrective action agreement
- (2) Failed to maintain substantial compliance with minimum licensing requirements while holding a new provisional license
- (3) Demonstrated continued noncompliance with Class A requirements
- (f) The Child Care Licensing Unit may **suspend a license or COE** if the facility:
- (1) Violated a corrective action agreement while holding a regular license or COE and did not agree or comply with a successive corrective action agreement
- (2) Loses fire department approval due to noncompliance with fire department standards and fails to meet compliance deadlines set by the department
- (3) Loses Arkansas Department of Health approval due to noncompliance with standards such that the Department of Health states that there is a risk to children in care
- (4) Demonstrated continued noncompliance with Class A minimum licensing standard(s) but would be able to resume normal operation when the harmful conditions are eliminated
- (g) (1) A suspension order of a facility license or COE:
- (A) May not exceed twelve (12) months
- (B) Shall include a corrective action agreement clearly stating the conditions that must be met to resolve the challenges necessitating the suspension order
- (C) Shall remain in effect until the:
- (i) Suspension order expires
- (ii) The Child Care Licensing Unit determines the conditions of the suspension order have been met and reinstates the facility license or COE
- (2) If a suspension order expires without the facility meeting the terms of the order, the Child Care Licensing Unit may revoke the license or COE
- (h) The Child Care Licensing Unit may revoke a license or COE if the facility:
- (1) Has demonstrated an unwillingness or inability to meet requirements to be in substantial compliance with minimum licensing requirements
- (2) Violated a corrective action agreement while on probationary status
- (3) Fails to meet the conditions of a suspension order
- (i) (1) The **revocation** of a license or COE nullifies and cancels the license or COE
- (2) At the time of a final determination of revocation of the license by the office, the office shall specify in the revocation letter the terms of the revocation.
- (3) The licensee shall not be eligible to reapply for a license for a minimum of one year, or longer if specified in the revocation order.
- (4)(A) Related parties shall not be eligible to apply for a license for the same specified period.
- (B) Related parties are defined as immediate family members, members of the board of directors, persons or entities associated or affiliated with, or which share common ownership, control, or common board members or which have control of or are controlled by the licensee.
- (C) For the purpose of this section, an immediate family member is defined as:
- (i) A spouse;
- (ii) Step and in-law relationships;
- (iii) A child;
- (iv) A natural or adoptive parent;
- (v) A sibling;
- (vi) A grandparent;

- (vii) A grandchild; or
- (viii) Fictive kin who fulfills the role of any of the persons listed above,
- (j) When any person, partnership, group, corporation, organization, or association shall operate or assist in the operation of a child care facility that has not been licensed by the OEC or has had the license denied, suspended, or revoked and has been ordered to cease and desist operation, in accordance with the provisions of this subchapter, the OEC shall have the right to go into the circuit court in the jurisdiction in which the childcare facility is being operated and, upon affidavit, secure a writ of injunction, without bond, restraining and prohibiting the person, partnership, group, corporation, organization, or association from operating the child care facility

20 CAR § #-207. License or COE fees

- (a) Each facility shall submit an annual fee as a condition of a facility license or COE, with payment due on the anniversary of the facility's initial license date
- (b) A facility license or COE fee is determined by combining the maximum license capacity of all licenses or COEs located within the same premises as defined in Administrative Policy 207A
- (c) The facility shall not receive a license or COE unless the required fee has been paid.
- (d) License or COE fees shall be paid on the fee schedule defined in Administrative Policy 207B
- (e) (1) Upon review and determination of a licensing or COE recommendation by the Child Care Licensing Unit, the facility shall receive a Notice of Fee Due.
(2) Twenty (20) days after the Notice of Fee Due, the Child Care Licensing Unit shall send a second notice, Notice of Fee Past Due, to facilities failing to submit the required fee
- (f) (1) Refunds of license or COE fees paid are made only when the Child Care Licensing Unit does not approve issuance of a license or COE
(2) There shall be no refunds of license or COE fees paid for voluntary closure of a facility or for office Child Care Licensing Unit decision of adverse action to revoke or suspend a license or COE
- (g) (1) All license or COE fees paid shall be deposited in a special child care provider's fund
(2) This fund shall be used to meet the cost of conducting statewide criminal record checks, with the remaining money used for training or materials to be loaned to child care providers

20 CAR § #-208. Alternative compliance

- (a) A facility licensee/owner may request approval for alternative compliance with minimum licensing requirements named in this part with the exception of licensing requirements that are enforced by:
 - (1) State or local Department of Health
 - (2) Local fire marshal
 - (3) State Fire Marshal's office
 - (4) Applicable city ordinances, including zoning
- (b) If approved, alternative compliance indicates that the Child Care Licensing Unit has determined that a facility is permitted to demonstrate compliance with one or more minimum licensing requirements in such a way that differs from the language or letter of the requirement and/or may be considered out of compliance based on standard interpretation
- (c) The Child Care Licensing Unit may grant alternative compliance with this part if the Office of Early Childhood determines that the implementation of the requirement:
 - (1) Does not jeopardize the health, safety, or welfare of children

- (2) Meets the basic intent of the requirement(s) for which the center is requesting alternative compliance
- (d) The facility licensee/owner seeking approval for an alternative compliance shall submit a digital or physical written request to the Child Care Licensing Unit that includes:
 - (1) The specific requirements for which alternative compliance is sought
 - (2) A description of the alternative implementation of the requirement
 - (3) An explanation of and evidence supporting how the alternative implementation would meet the criteria for approval as defined in Section 208 Subsection (c)
 - (4) A description of the potential risks of the alternative implementation and the facility licensee/owner's strategy to mitigate the risks and ensure the alternative implementation will continue to meet the criteria for approval as defined in Section 208 Subsection (c)
- (e) The facility licensee/owner shall submit a separate written request for each requirement for which alternative compliance is sought
- (f) The Child Care Licensing Unit, at its discretion and as necessary, may request additional information or evidence from the facility licensee/owner related to the alternative compliance request
 - (1) Any requests for additional information or evidence shall be made by the Child Care Licensing Unit within ten (10) business days of the submission of the facility licensee/owner's initial written request for alternative compliance
 - (2) The facility licensee/owner may share relevant evidence supporting the alternative compliance request in the initial written request
 - (3) The Child Care Licensing Unit shall have the right to obtain external evidence or expert opinion to corroborate evidence provided by the facility licensee/owner
- (g) The Child Care Licensing Unit shall consider the compliance history of any existing facility or facilities for which the licensee/owner holds license(s) or COE(s) in its determination of approval for alternative compliance
- (h) The Child Care Licensing Unit shall issue in writing a determination of an alternative license request within sixty (60) days of the facility licensee/owner's initial written request for alternative compliance
- (i) Alternative compliance requests approved by the Child Care Licensing Unit shall be:
 - (1) Granted with clear conditions for satisfactory implementation
 - (2) Effective for the duration of the license unless a shorter timeframe is specified
 - (3) Made available for information purposes to all Arkansas facility licensees/owners
 - (4) (A) Considered as evidence for future requests for alternative compliance
(B) However, approved alternative compliance request shall not constitute precedent
 - (5) Revoked upon failure to meet conditions for satisfactory implementation

20 CAR § #-209. Monetary penalties

- (a) The Child Care Licensing Unit is authorized to impose monetary fines as civil penalties to be paid for failure to comply with the provisions of this subchapter or the rules promulgated pursuant thereto.
- (b) In determining whether a civil penalty is to be imposed, the following factors shall be considered:
 - (1) The gravity of the violation, including the probability that death or serious physical harm to a child will result or has resulted, the severity and scope of the actual or potential harm, and the extent to which the provisions of the applicable statutes or rules were violated;
 - (2) The exercise of good faith,
 - (3) Any relevant previous violations committed; and
 - (4) The financial benefit of committing or continuing the violation

Commented [15]: Note: The Child Care Facilities Licensing Act requires this section on monetary penalties to be included in the Rules.

- (c) Monetary penalties for noncompliance with minimum licensing regulations are as follows:
 - (1) Noncompliance with Class A licensing standards are subject to a civil penalty of one hundred dollars (\$100) for each violation
 - (2) Noncompliance with Class B licensing standards are subject to a civil penalty of fifty dollars (\$50.00) for each violation
 - (3) Each day of noncompliance with a Class A or Class B licensing standard shall constitute a separate violation.
 - (4) Aggregate fines assessed for violation in any one (1) month shall not exceed five hundred dollars (\$500) for noncompliance with Class A licensing standards or two hundred fifty dollars (\$250) for noncompliance with Class B licensing standards.
- (d) (1) Any person violating any provisions of this subchapter and any person assisting any partnership, group, corporation, organization, or association in violating any provisions of this subchapter shall be fined in any sum not less than twenty-five dollars (\$25.00) and not more than one hundred dollars (\$100).
- (2) Each day of the violation shall constitute a separate offense.
- (e) If any facility licensee/owner fails to pay any monetary fine imposed as a civil penalty within sixty (60) days of the OEC's decision imposing the penalty, the amount of the fine shall be considered to be a debt owed the State of Arkansas and may be collected by civil action.

20 CAR § #-210. Appeal of licensing actions

- (a) A prospective or current licensee/owner may request an appeal of any of the following decisions through the procedures defined in this section:
 - (1) Adverse actions defined in Section 206
 - (2) Founded licensing complaints;
 - (3) Denials of or conditions of alternative compliance requests; and
 - (4) Cited noncompliance with minimum licensing requirements
 - (5) Monetary penalties defined in Section 209
- (b) The following cannot be appealed through the procedures defined in this section:
 - (1) Support plan(s)
 - (2) Corrective action agreement(s)
 - (3) (A) Founded child maltreatment complaints
- (c) A facility licensee/owner may request an appeal of any of the decisions defined in Section 210 Subsection (a) by submitting a request in writing to the Child Care Licensing Unit
 - (1) Requests to appeal adverse actions defined in Section # shall be submitted in writing within ten (10) business days of the receipt of the notice of the adverse action
 - (2) Requests to appeal decisions named in Section 210 Subsection (a) other than adverse actions defined in Section 206 shall be submitted in writing within twenty (20) business days from receipt of the notification of the decision
- (d) The request to appeal shall include:
 - (1) A description of the decision(s) made by the Child Care Licensing Unit
 - (2) The reason(s) the prospective or current licensee/owner disagrees with the decision(s)
- (e) Submitted appeals shall first be reviewed through OEC's internal appeal process as described in Administrative Policy 210A
- (f) Upon completion of the OEC's internal appeal process, if the appeal is not resolved to the satisfaction

of the current or prospective licensee/owner, then the current or prospective licensee/owner may request a determination through an appeal hearing by the Child Care Appeal Review Panel as defined in Child Care Facility Licensing Act, Arkansas Code §§ 20-78-202

- (g) (1) If the current or prospective licensee/owner disagrees with a ruling by the Child Care Appeal Review Panel, then they may file suit in the Pulaski County Circuit Court.
 (2) The Office of Early Childhood must be named a party defendant and summoned as in an action by ordinary proceedings

Commented [16]: Note: Legal should weigh on on whether it is possible to file suit outside of Pulaski.

Subpart 3. Safety

20 CAR § #-301. Reporting requirements

- (a) Facility personnel are mandated reporters of suspected child maltreatment and shall call the Child Maltreatment Hotline if they have reason to suspect child maltreatment
 (b) Facility personnel are required by Acts 2019, No. 530, to notify law enforcement if they have a good faith belief that there is a serious and imminent threat to the health or safety of a student, employee, or the public based on a threat made by an individual regarding violence in, or targeted at, a school or child care facility that has been communicated to the person in the course of their professional duties
 (c) The facility shall post a written procedure for reporting suspected child maltreatment that includes the Child Maltreatment Hotline number
 (d) (1) The facility shall post a written procedure for reporting suspected licensing violations of children that includes the Child Care Licensing Central Office number
 (2) Serious licensing violations shall be reported to the Child Care Licensing Unit
 (3) Serious licensing violations are:
 (A) Violations of Class A requirements defined in the Minimum Licensing Rules
 (B) Any other violations that could imminently affect the health and safety of children or personnel

20 CAR § #-302. Child Maltreatment Central Registry Checks.

- (a) The following persons shall be required to have their background reviewed through a Child Maltreatment Central Registry check

(1) Each licensee/owner applying for a child care facility license or COE	At application and every five (5) years thereafter
(2) Each director/operator identified on an application for a child care facility license or COE	At application and every five (5) years thereafter
(3) All facility personnel	Prior to employment and every five (5) years thereafter
(4) All household members of a licensed child care family home who are ten (10) years of age and older	At application, upon residence, and every five (5) years thereafter
(5) Members of the Board of Directors who have routine contact with children	Upon joining Board and every five (5) years thereafter

(6) Service providers	Prior to providing services and every five (5) years thereafter
(7) Volunteers and visitors who have routine contact with children or who count toward the facility's adult-to-child ratio	Prior to participating in facility activities and every five (5) years thereafter

(b) Prospective employees who have not lived in the State of Arkansas during the preceding five (5) years will be subject to current federal guidelines regarding conducting a child maltreatment background check in any states where they resided during the past five (5) years

(c) (1) The Child Care Licensing Unit shall contact individuals to share:

(A) The individual's Child Maltreatment Central Registry Check results;

(B) Procedures to update or make corrections to the record of their individual history

(2) (A) Individuals with approved Child Maltreatment Central Registry Check results shall receive a copy of the Child Maltreatment Central Registry Check results and a letter from the Child Care Licensing Unit certifying their approval status

(B) This letter shall serve as evidence of an approved Child Maltreatment Central Registry Check results for the timeline specified

(C) Individuals may:

(i) Share a copy of the letter and background check results with other facilities in which the individual is working

(ii) Request additional copies of the approval letter from the Child Care Licensing Unit

(d) If a complaint of child maltreatment is filed against any facility personnel, household members, or board of directors, the Child Care Licensing Unit shall:

(1) Alert the Department of Child and Family Services

(2) Support the Department of Child and Family Services in evaluating the risk to children

(3) (A) Determine the suitability of alleged person(s) to be in the presence of children or remain in the facility during hours of care until the allegations have been determined to be true or unsubstantiated
(B) Pending the evaluation of the risk to children, the alleged person(s) shall not be left alone with children

(4) (A) Determine if the complaint, regardless if founded as child maltreatment, is considered in noncompliance with minimum licensing rules

(B) If the complaint is determined to be in noncompliance with minimum licensing rules, the Child Care Licensing Unit shall follow the procedures outlined Section 205 Subsection (c)

20 CAR § #-303. Comprehensive Regulatory Check Requirements

(a) The following persons shall be required to complete a Comprehensive Background Check, including, the National Federal Bureau of Investigation (FBI) Criminal History check, Arkansas State Criminal History Check, NCIC National Sex Offender Registry Search, and Arkansas State Sex Offender Search

(1) Each licensee/owner applying for a child care facility license or COE	At application and every five (5) years thereafter
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(2) Each director/operator identified on an application for a child care facility license or COE	At application and every five (5) years thereafter
(3) All facility personnel	Prior to employment and every five (5) years thereafter
(4) Volunteers or visitors who count toward the facility's adult-to-child ratio	Prior to participating in facility activities and every five (5) years thereafter
(5) Service providers who have unsupervised contact with children	Prior to providing services and every five (5) years thereafter

- (b) Prospective employees who have not lived in the State of Arkansas during the preceding five (5) years will be subject to current federal guidelines regarding conducting a criminal background check and sexual offender registry check in any states where they resided during the past five (5) years
- (c) (1) Arkansas State Police Automated Fingerprint Identification System (AFIS) will return results to the Child Care Licensing Unit
- (2) Any charge or convictions listed in this section that are returned will be considered regardless of whether the record is expunged, pardoned, or otherwise sealed.
- (d) (1) The Child Care Licensing Unit shall contact individuals to share:
- (A) The individual's results;
 - (B) Procedures to update or make corrections to the record of their individual history
- (2) (A) Individuals with approved background check results shall receive a copy of the initial background check results and a letter from the Child Care Licensing Unit certifying their approval status
- (B) This letter shall serve as evidence of an approved background check for the timeline specified
- (C) Individuals may:
- (1) Share a copy of the letter and background check results with other facilities in which the individual is working
 - (2) Request additional copies of the approval letter from the Child Care Licensing Unit
- (e) (1) Prospective personnel may not begin work until the overall Comprehensive Background Check is in a provisional status.
- (2) The individual must be supervised at all times by personnel with an approved Comprehensive Background Check, until a final determination is made
- (f) (1) No person shall be eligible to be child care facility personnel if that person has pleaded guilty or been found guilty of:
- (A) Any of the following offenses by any court in the State of Arkansas;
 - (B) Any similar offense by a court in another state; or
 - (C) Any similar offense by a federal court.
- (2) The following offenses are permanently prohibited:

Abuse of an endangered or impaired person, if felony;	§ 5-28-103;
Arson;	§ 5-38-301;
Capital murder;	§ 5-10-101;

Endangering the welfare of an incompetent person in the first degree;	§ 5-27-201;
Kidnapping;	§ 5-11-102;
Murder in the first degree;	§ 5-10-102;
Murder in the second degree;	§ 5-10-103;
Rape;	§ 5-14-103;
Sexual assault in the first degree; and	§ 5-14-124; and
Sexual assault in the second degree.	§ 5-14-125.

(g)(1) No person shall be eligible to be child care facility personnel if that person has pleaded guilty or been found guilty of:

- (A) Any of the following offenses by any court in the State of Arkansas;
- (B) Any similar offense by a court in another state; or
- (C) Any similar offense by a federal court.

(2) The following offenses are prohibited:

Criminal attempt to commit any offenses;	§ 5-3-201;
Criminal complicity to commit any offenses;	§ 5-3-202;
Criminal conspiracy to commit any offenses;	§ 5-3-401;
Criminal solicitation to commit any offenses;	§ 5-3-301;
Assault in the first, second, or third degree;	§§ 5-13-205 to 5-13-207;
Aggravated assault;	§ 5-13-204;
Aggravated assault on a family or household member;	§ 5-26-306;
Battery in the first, second, or third degree;	§§ 5-13-201 to 5-13-203;
Breaking or entering;	§ 5-39-202;
Burglary;	§ 5-39-201;
Coercion;	§ 5-13-208;
Computer crimes against minors;	§ 5-27-601 et seq.;
Contributing to the delinquency of a juvenile;	§ 5-27-220;
Contributing to the delinquency of a minor;	§ 5-27-209;
Criminal Impersonation;	§ 5-37-208;
Criminal use of a prohibited weapon;	§ 5-73-104;
Communicating a death threat concerning a school employee or students;	§ 5-17-101;
Domestic battering in the first, second, or third degree;	§§ 5-26-303 to 5-26-305;
Employing or consenting to the use of a child in a sexual performance;	§ 5-27-402;

Endangering the welfare of a minor in the first or second degree;	§§ 5-27-205 to 5-27-206;
Endangering the welfare of an incompetent person in the first or second degree;	§ 5-27-202;
Engaging children in sexually explicit conduct for use in visual or print medium;	§ 5-27-303;
False imprisonment in the first or second degree;	§§ 5-11-103 to 5-11-104;
Felony abuse of an endangered or impaired person;	§ 5-28-103;
Felony interference with a law enforcement officer;	§ 5-54-104;
Felony violation of the Uniform Controlled Substances Act;	§ 5-64-101 et seq.;
Financial identity fraud;	§ 5-37-227;
Forgery;	§ 5-37-201;
Incest;	§ 5-26-202;
Interference with court-ordered custody;	§ 5-26-502;
Interference with visitation;	§ 5-26-501;
Introduction of controlled substance into the body of another person;	§ 5-13-210;
Manslaughter;	§ 5-10-104;
Negligent homicide;	§ 5-10-105;
Obscene performance at a live public show;	§ 5-68-305;
Offense of cruelty to animals;	§ 5-62-103;
Offense of aggravated cruelty to dog, cat, or horse;	§ 5-62-104;
Pandering or possessing visual or print medium depicting sexually explicit conduct involving a child;	§ 5-27-304;
Sexual solicitation;	§ 5-70-103;
Permanent detention or restraint;	§ 5-11-106;
Permitting abuse of a minor;	§ 5-27-221;
Producing, directing, or promoting a sexual performance by a child;	§ 5-27-403;
Promoting obscene materials;	§ 5-68-303;
Promoting obscene performance;	§ 5-68-304;
Promoting prostitution in the first, second, or third degree;	§§ 5-70-104 to 5-70-106;
Prostitution;	§ 5-70-102;
Public display of obscenity;	§ 5-68-205;
Resisting arrest;	§ 5-54-103;
Robbery;	§ 5-12-102;
Aggravated robbery;	§ 5-12-103;
Sexual offenses;	§ 5-14-101 et seq.;
Simultaneous possession of drugs and firearms;	§ 5-74-106;
Soliciting money or property from incompetents;	§ 5-27-229;

Stalking;	§ 5-71-229;
Terroristic act;	§ 5-13-310;
Terroristic threatening;	§ 5-13-301;
Theft by receiving;	§ 5-36-106;
Theft of property;	§ 5-36-103;
Theft of services;	§ 5-36-104;
Transportation of minors for prohibited sexual conduct;	§ 5-27-305;
Unlawful discharge of a firearm from a vehicle; and	§ 5-74-107; and
Voyeurism.	§ 5-16-102.

(h) Any person who has pleaded guilty, nolo contendere, or who has been found guilty of any one (1) of the offenses listed in subsection (e) of this section may not work in child care unless:

- (1) The date of the conviction or plea of guilty or nolo contendere for a misdemeanor offense is at least five (5) years from the date of the request for the criminal history records check and there have been no criminal convictions or pleas of guilty or nolo contendere of any type or nature during the five-year period preceding the background check request; or
- (2) The date of the conviction or plea of guilty or nolo contendere for a felony offense is at least more than ten (10) years from the date of the request for the criminal history records check and there have been no criminal convictions or pleas of guilty or nolo contendere of any type or nature during the ten-year period preceding the background check request.

(i) (1) If the licensee wishes to employ an individual with a conviction or plea of guilty or nolo contendere for the following nonviolent offenses, they shall submit a written request for a waiver prior to employment:

- (A) Theft by receiving, Arkansas Code § 5-36-106;
- (B) Forgery, Arkansas Code § 5-37-201;
- (C) Financial identity fraud, Arkansas Code § 5-37-227;
- (D) Resisting arrest, Arkansas Code § 5-54-103;
- (E) Criminal impersonation in the second degree, Arkansas Code § 5-37-208(b);
- (F) Interference with visitation, Arkansas Code § 5-26-501;
- (G) Interference with court-ordered custody, Arkansas Code § 5-26-502;
- (H) Prostitution, Arkansas Code § 5-70-102; or
- (I) Sexual solicitation, Arkansas Code § 5-70-103.

(2) The waiver may be approved if all of the following conditions are met:

- (A) The individual has completed probation or parole supervision;
- (B) The individual has paid all court-ordered:
 - (i) Fees;
 - (ii) Fines; and
 - (iii) Restitution; and

(C) The individual has fully complied with all court orders pertaining to the conviction or plea.

(j) The waiver will be revoked if, after employment, the individual:

- (1) Pleads guilty or nolo contendere or is found guilty of any prohibited offense (including the list in subdivision (g)(1) of this section); or
- (2) Has a true or founded report of child maltreatment or adult maltreatment in a central registry.

(k) The request for waiver and certification of approval shall be kept in the individual's file for the term of employment and three (3) years after termination of employment.

(l) If approved, the waiver is not transferable to another licensed facility.

(m) Anyone employed in a licensed center, church-operated exempt center, licensed childcare family home, or a registered childcare family home prior to September 1, 2009, with a clear background check history may remain eligible for employment unless the employee had a conviction, pleaded guilty, or pleaded nolo contendere to an offense listed in subsection (e) of this section since September 1, 2009.

20 CAR § #-304. Liability insurance requirement

(a) The licensee shall maintain child care liability insurance (Acts 2009, No. 778) at the following minimum amounts of coverage:

(1) **Child care centers** shall maintain:

Licensed Capacity of Center	Minimum Childcare Liability Insurance Coverage Required
1-74	\$500,000 per occurrence
75 and up	\$1,000,000 per occurrence

(2) **Licensed child care family homes** shall maintain the minimum amount of one hundred thousand dollars (\$100,000) per occurrence

(b) State institutions, political subdivisions, or other entities entitled to immunity from liability under Arkansas Code § 21-9-301, are not required to have general liability insurance coverage in order to be licensed (Acts 2015, No. 23)

20 CAR § #-305. Facility safety practices

(a) (1) Personnel shall not release a child to anyone who is not recognized as the child's parent, guardian, or someone on the authorized pick-up list for the child unless:

(A) The individual can provide official picture identification; and

(B) The name on the official picture identification matches an individual named on the authorized pick-up list for the child

(2) If the name on the official picture identification does not match an individual named on the authorized pick-up list for the child, the licensee/owner, director/operator, or site supervisor shall directly contact the parent or guardian listed on the child's record to verify permission for the individual to pick up the child

(b) The facility shall maintain daily attendance records on all children as follows:

(1) Children shall be signed in and signed out daily by a parent, guardian, or individual named on the authorized pick-up list for the child;

(2) Digital sign-in and sign-out systems will meet this requirement; and

(3) The record shall include the date and time of arrival and departure

(c) (1) The licensee/owner, director/operator, or a site supervisor shall be present at each licensed facility a minimum of fifty percent (50%) of the facility's standard hours of operation

(2) (A) When the licensee/owner, director/operator, or site supervisor are away from the facility, there shall be designated personnel who shall have the ability, authority, and responsibility to carry out daily operations

(B) The designated personnel shall be twenty-one (21) years of age or older

(d) (1) The licensee/operator, director/operator, or site supervisor, and fifty percent (50%) of facility personnel that are on-site at any given time shall have a certificate of successful completion of first aid and cardiopulmonary resuscitation (CPR) from an approved organization

- (2) The CPR certification shall include training for adult, child, and infant CPR for the range of ages of all children in care.
- (e) (1) The facility shall have a written plan detailing the procedures to follow in the event of emergencies that require evacuation of children and personnel
 - (2) The plan and procedures are required for emergencies that could:
 - (A) Cause structural damage to the facility
 - (B) Pose a health or safety hazard to the children and staff
 - (3) The written evacuation plan shall include the following information:
 - (A) Designated relocation site and evacuation route;
 - (B) Procedures for notifying parents and guardians of relocation
 - (C) Procedures for ensuring family reunification
 - (D) Procedures to address the needs of individual children, including children with:
 - (i) Special needs
 - (ii) Chronic medical conditions
 - (4) Procedures and documentation for annual training of staff regarding the plan and possible reassignment of staff duties in an emergency
 - (5) Plans to ensure that all staff and volunteers are familiar with the components of the plan.
 - (A) The facility shall maintain on-site a current copy of the Arkansas Comprehensive Emergency Management Plan issued by the Child Care Licensing Unit
 - (6) Written procedures and evacuation diagrams for emergencies shall be posted in each room where care is provided for children
- (f) (1) The facility shall maintain an evacuation pack that shall be taken:
 - (A) On all drills
 - (B) During actual emergency evacuations.
 - (2) The pack shall be easily accessible in an emergency
 - (3) All personnel shall know the location of the pack
 - (4) The evacuation pack shall include, at a minimum, the items and materials listed in Administrative Policy 305A
- (g) (1) Fire and tornado drills shall be practiced:
 - (A) Monthly
 - (B) On separate days and at different times of the day
 - (C) During traditional care, evening care, night care, and weekend care hours as applicable
 - (2) All facility personnel present at the time of the drill shall participate in the drill
 - (3) The facility shall maintain a record of emergency drills
- (h) In the event that a smoke detector or alarm is activated, all occupants must immediately evacuate the building using the nearest safe exit
- (i) The director/operator or site supervisor on-site at a child care facility shall have an operable telephone on their person at all hours when children are on site
 - (1) The telephone shall be capable of accepting voice messages
 - (2) The child care facility shall share the phone number with:
 - (A) The Child Care Licensing Unit upon application and within twenty-four (24) hours of any changes to the telephone number
 - (B) Parents and guardians upon enrollment
 - (C) Individuals named on the authorized pick-up list for the child upon addition to the authorized pick-up list
 - (3) If the facility phone number changes, the child care facility shall share the updated phone number

with the parties defined in Subsection (i)(2) of this section within twenty-four (24) hours of when change is effective

20 CAR § #-306. Safe sleep practices

- (a) Each child birth through twelve (12) months shall be placed in an age-appropriate crib or baby bed, mattress or pad, and appropriate sheets and covers for when they fall asleep and rest
- (b) Children under twelve (12) months shall be placed flat on their backs to sleep
 - (1) The facility is not required to reposition a child who rolls over on their accord
 - (2) If there is a medical reason a child cannot sleep on his or her back, then a signed statement from the child's physician must be in the file stating:
 - (A) Reason for the alternative sleep position
 - (B) Sleep position that should be used
 - (C) Time frame during which this position should be used
 - (3) Swaddling children above the age of three (3) months shall require a note from the child's physician
- (c) Children shall be visually monitored while sleeping directly or through a visual monitoring device
- (d) Children shall be physically checked for breathing regularly while sleeping
 - (1) Children under twelve (12) months shall be physically checked for breathing every 15 minutes
- (e) The following requirements apply to cribs and baby beds:
 - (1) Cribs and baby beds shall meet Consumer Product Safety Commission standards
 - (2) Slats shall be no greater than two and three-eighths inches (2 3/8") apart
 - (3) Corner posts shall be the same height as end panels
 - (4) End panels shall extend below mattress at the lowest position of the mattress
- (f) The facility shall provide a crib with evacuation casters or equivalent that will provide one (1) bed for every six (6) children twelve (12) months and younger that may be used for safe evacuation
- (g) Cribs and baby beds shall not be placed:
 - (1) Near dangling cords or other entanglement or entrapment hazards
 - (2) In locations that put items or objects that may cause harm within reach of the child
- (h) The following shall not be used:
 - (1) Cribs or baby beds that have end panels with decorative cutout areas
 - (2) Bassinets
- (i) Mattresses or pads used in cribs or baby beds shall be:
 - (1) Waterproof or use a waterproof cover protector
 - (2) Clean and in good repair
 - (3) Placed such that the space between crib or baby bed and mattress shall measure no more than one inch (1")
- (j) Cribs and baby beds shall be free of:
 - (1) Pillows, including nursing pillows, Boppy pillows, bumpers, and bumper pads
 - (2) Stuffed animals
 - (3) (A) Loose bedding
 - (B) If a light blanket is necessary, it should be kept at or below the mid-chest area
 - (4) Entanglement, entrapment, or suffocation hazards
 - (5) Items or objects that may cause harm to the child

(k) Children shall not wear bibs, necklaces, garments with ties or hoods, or other items that present entanglement hazard while sleeping

(l) Adults shall not cover a child's face while sleeping

(m) Each child over twelve (12) months shall have a separate cot, bed, pallet, bedroll, or mat and appropriate sheets and covers for when they fall asleep and rest

(n) Cots, beds, pallets, bedrolls, or mats shall be:

- (1) Washable
- (2) Waterproof
- (3) Age-appropriate
- (4) Size-appropriate
- (5) Placed at least one foot (1') apart while in use by children for sleeping

(o) (1) If a mat, bedroll, or pallet is used on floors, floors shall be:

- (A) Clean
- (B) Warm
- (C) Dry
- (D) Draft-free

(2) Any mat, bedroll, or pallet less than two inches (2") thick that is used on the floor shall be placed on carpet

(p) Sheets and covers used for sleeping shall be washable and washed:

- (1) at least one (1) time per week
- (2) More frequently as needed to maintain cleanliness
- (3) Between uses by different children

20 CAR § #-307. Transportation safety

- (a) (1) The requirements in this section apply to all transportation provided by the licensee, including transportation provided by any person on behalf of the licensee, regardless of whether the person is considered personnel
- (2) Periodic transportation, such as a parent requesting that their child be picked up at school due to the parent's work schedule or other conflicts, is also covered by these requirements, whether a fee is charged for this service or not
- (b) The vehicle(s) used for the transportation of children shall be in compliance with Arkansas state laws on transportation of children
- (c) Vehicles shall be licensed and maintained in proper working condition including air conditioning and heating systems
- (d) When children are transported, emergency contact information shall be maintained on the vehicle at all times
- (e) Personnel or support staff transporting children shall meet the following requirements:
 - (1) Be at least twenty-one (21) years of age or the minimum age required by the licensee's commercial auto insurance;
 - (2) Hold a current valid driver's license or commercial driver's license as required by state law
 - (3) Successfully complete the training course in driver safety that is offered or approved by the Office of Early Childhood prior to transporting children
- (f) (1) Adult-to-child ratio and group size requirements defined in Section 501 and 502 shall apply unless otherwise stated below
- (2) In a vehicle transporting children younger than thirty-six (36) months:
 - (A) A ratio of one (1) adult for each of the three (3) children under thirty-six (36) months of age

shall be maintained

(B) The driver may be counted in the staff-to-child ratio but shall not be the only adult.

(3) In a vehicle transporting children older than thirty-six (36) months the driver may be counted in the staff-to-child ratio but shall not be the only adult when transporting more than twelve (12) children

(4) For children in kindergarten and older only, the driver may be counted in the staff-to-child ratio but a ratio of one-to-eighteen (1:18) shall be maintained

(5) At least one (1) adult in the vehicle shall be certified in first aid and adult, child, and infant CPR for the range of ages of all children in care

(g) (1) Transportation rosters as defined in Subsection (g)(2) shall be used to check children on and off the vehicle when at the beginning and completion of transportation to and from any location

(2) Transportation rosters shall list:

(A) Date of transportation

(B) Names and ages or dates of birth of all children being transported

(C) Name of driver and any other staff member on the vehicle

(D) Signature of driver or personnel who conducted walk-through inspection

(E) Signature of driver or personnel who verified children safely transitioned from the vehicle to the facility

(3) Transportation rosters shall be kept by the facility and available for review for one (1) year

(h) There shall be a seating space and an individual, appropriate restraint system provided for each child transported

(i) (1) Any child who is less than six (6) years old or weighs less than sixty pounds (60 lbs.) shall be restrained in a child passenger safety seat.

(2) Any child who is at least six (6) years old or weighs at least sixty pounds (60 lbs.) must be restrained by a safety belt

(3) (A) Conventional school busses are exempt from this requirement when transporting children thirty-six (36) months and above

(B) Children younger than thirty-six (36) months shall not be transported on school buses that are not equipped to accommodate required safety seats.

(4) Child passenger safety seats shall be used in accordance with the manufacturer's guidelines.

(j) (1) Any vehicles designed or used to transport more than seven (7) passengers and one (1) driver must have approved child safety alarm devices installed.

(2) These devices must be properly maintained in working order at all times.

(3) (A) The alarm system shall be installed so that the driver must walk to the very back of the vehicle to reach the switch that deactivates the alarm.

(B) Alarm switches installed in locations that do not require the driver to walk to the back of the vehicle and view all seating areas will not be acceptable

(4) The time delay from activation of the alarm until the alarm sounds shall be no longer than one (1) minute.

(k) To ensure that no children are left on the vehicle, the driver or facility personnel must walk through the vehicle and physically inspect each seat before leaving the vehicle

(l) To ensure that children have safely arrived in the facility, the director/operator or designated facility personnel shall review the transportation roster and compare with child attendance records

(m) (1) Commercial insurance coverage shall be maintained for any vehicle used for transportation by the facility.

(2) Required coverage amounts to be maintained are:

(A) Minimum coverage of one hundred thousand dollars (\$100,000) combined single limit;

- (B) Minimum coverage of one hundred thousand dollars (\$100,000) for both uninsured motorist and underinsured motorist; and
- (C) Minimum coverage of five thousand dollars (\$5,000) personal injury protection for each passenger, based on the number of passengers the vehicle is manufactured to transport.
- (3) Exception. State institutions, political subdivisions, or other entities entitled to immunity from liability under Arkansas Code § 21-9-301, are not required to meet this requirement to be licensed.

20 CAR §#-308. Swimming pool requirements.

- (a) Swimming pools and natural pools of water may only be used for water play children thirty-six (36) months of age and older if the following requirements are met:
 - (1) Department of Health approval where applicable;
 - (2) The child's parent or guardian has granted digital or physical written permission
 - (3) One (1) person present at all times who has current certification in Red Cross Life Saving or Young Men's Christian Association aquatic instruction.
- (b) (1) During authorized swimming activities, the following adult-to-child ratios must be maintained unless children are participating in an authorized swimming instruction program:

(A) 60 months and above	1:8
(B) 48 months – 60 months	1:3
(C) 36 months – 48 months	1:2
(D) Under 36 months	Not Permitted

 - (2) When children of different ages are swimming together, the ratio shall be based on the youngest child in the group.
 - (3) Lifeguards, swimming instructors, or any other swimming pool staff may be counted in the ratio when:
 - (A) The facility's children are the only occupants of the pool; and
 - (B) These persons have completed regulatory checks as required in Sections 302 and 303
- (c) (1) Swimming pools located within the play area of the center shall be enclosed.
- (2) The enclosure shall consist of a locked gate and a fence that is at least four feet (4') high.
- (d) Variations: **Licensed Child Care Family Homes**
 - (1)(A) Home swimming pools shall not be used by children in care unless permission is obtained from the licensing unit through an alternative compliance request.
 - (B) This request must include written approval from the Department of Health for the use of the pool by children in care.

Subpart 4. Facility Physical Space

20 CAR § #-401. Building requirements.

- (a) Child care facilities shall secure, as applicable, an approved inspection from state and local fire and health departments:
 - (1) At submission of complete license or COE application
 - (2) Annually
 - (A) If inspection is not completed prior to the deadline, verification that inspection has been scheduled shall be sufficient for compliance

Commented [17]: Note: Fire inspections surfaced as challenge for several child care family home providers. There wasn't much we could do about that in the context of licensing rules. However, there is some discussion in other states about shifting more of the ownership of fire approval to child care licensing that we can share with you if interested.

- (b) All water heaters and any other boilers in child care facilities shall be inspected and approved by the Boiler Inspection Division of the Department of Labor
 - (1) Within thirty (30) days of submission of complete license or COE application
 - (2) Annually
 - (A) If inspection is not completed prior to the deadline, verification that inspection has been scheduled shall be sufficient for compliance
 - (3) Upon installation
- (c) At license application, child care facilities shall secure, as applicable
 - (1) Local zoning approval
 - (2) Arkansas Manufactured Home Commission inspection and approval
- (d) (1) Manufactured homes licensed as child care facilities shall be tied down and underpinned as required by the Arkansas Manufactured Home Commission
 - (2) Annual fire approval shall be obtained on all manufactured homes licensed as child care facilities
- (e) Portable storage-type buildings shall not be used as child care facilities
- (f) Within thirty (30) days of licensure and within thirty (30) days of any change or modification of the floor plan, the facility shall file a copy of their floor plan with the local office of emergency management, including the following (Arkansas Code § 20-78-228, Acts 2013, No. 1159):
 - (1) A schematic drawing and/or floorplan of the facility and property used by the facility, including the configuration of rooms, spaces, and other physical features of the building
 - (2) The location(s) where care for children is provided
 - (3) The escape routes approved by the local fire department for the childcare
 - (4) The licensed capacity and ages of children per room at the facility
 - (5) An aerial view of the child care facility and property used by the facility, if available
- (g) (1) There shall be thirty-five square feet (35 sq. ft.) per child of usable floor space in indoor environments in which care is provided
 - (2) Usable floor space calculations shall not include floor space in:
 - (A) Kitchens
 - (B) Bathrooms
 - (C) Hallways
 - (D) Closets used exclusively for storage
- (h) Indoor environments in which care is provided shall:
 - (1) Remain at a temperature that is comfortable for children
 - (2) Have sufficient lighting to provide supervision of children
 - (3) Be adequately ventilated
- (i) In indoor environments where care is provided for infants and toddlers alongside older children:
 - (1) **Child care centers:** Child care centers shall provide adequate physical separation in areas where infants and toddlers cared for and areas where older children are cared for
 - (2) **Licensed child care family homes:** Licensed child care family homes may provide care for mixed-age groups, including infants, toddlers, and older children, within the same space

20 CAR § #402. Building Safety.

- (a) Written procedures and evacuation diagrams for emergencies shall be posted in each area where care is provided
- (b) The child care facility's building shall be:

- (1) Kept in good repair
- (2) Maintained as needed to protect the health and safety of children
- (3) Free from insects and rodents
- (4) Free from waste that creates risk of spread of disease
- (c) Water, sewage disposal, and toilet facilities shall be safe and sanitary
- (d) Paint used at the facility shall be lead-free
- (e) In building areas where care is provided and/or that are accessible to children, the following safety requirements apply:
 - (1) Indoor or outdoor floor furnaces, gas heaters, electric heaters, hot radiators, water heaters, air conditioners, electric fans, and other heating/cooling units shall have guards
 - (2) Electrical boxes, gas lines, and exposed electrical cords shall be enclosed
 - (3) Electrical outlets shall be guarded
 - (3) Stairways shall be well-lit and guarded
 - (4) Tanks, ponds, swimming pools, open wells, drainage ditches, and sewage drainpipes shall be fenced

20 CAR § #-403. Furniture and equipment safety

- (a) The following requirements apply to furniture, materials, and equipment that are accessible to children in a facility's indoor and outdoor areas
- (b) Furniture and equipment that are accessible to children in indoor and outdoor areas shall be:
 - (1) Kept in good repair
 - (2) Installed, maintained, and used according to manufacturer's guidelines if commercially developed
 - (3) Age-appropriate, as applicable
- (c) Broken furniture and equipment that pose a threat to children's safety shall be immediately removed or otherwise made inaccessible to children
- (d) Furniture and equipment shall be free of the following:
 - (1) Sharp points, corners, edges, or splinters
 - (2) Protrusion hazards
 - (3) Entanglement hazards
- (e) To prevent entrapment, no furniture or equipment shall have opening(s) between interior opposing surfaces between three and one-half inches and nine inches (3 1/2" – 9")
- (f) Fasteners and hooks on furniture or equipment shall be securely tightened or closed
- (g) Equipment and furniture that are designed to be anchored shall be properly anchored
- (h) Paint on equipment or furniture shall be lead free
- (i) Safety straps shall be used with furniture and equipment designed to be used with straps
- (j) Children shall not wear entanglement hazards while on play equipment
- (k)
 - (1) Children under 12 months shall not use wheeled equipment
 - (2) Children twelve (12) months and older shall wear properly fitted and approved helmets while using wheeled equipment when recommended by the equipment manufacturer.
 - (A) Helmets shall meet Consumer Product Safety Commission standards
 - (B) Helmets shall be removed as soon as children stop riding the wheeled equipment
- (l) (1) The Child Care Licensing Unit shall make available to child care facilities information about child product recalls and safety notices that are:
 - (A) Issued by Consumer Product Safety Commission; or
 - (B) Distributed by the Office of the Attorney General

Commented [18]: The requirements in this section apply to "both indoor and outdoor" furniture and equipment. The previous rules had several requirements that were exclusive to outdoor equipment (e.g., free of sharp points, corners, edges, or splinters) but that would be better suited to all furniture and equipment, regardless of location placement.

(2) Child care facilities shall maintain and make available to parent and guardians information about recalls and safety notices shared by the Child Care Licensing Unit

20 CAR § #404. Outdoor areas and playgrounds: Environment and materials

- (a) Children shall be supervised at all times when present in outdoor areas and playgrounds
- (b) A diagram or satellite photo of the facility's outdoor areas and playground shall be submitted to the Child Care Licensing Unit, clearly identifying the perimeter of the playground, with measurements
- (c) A facility's outdoor area or playground shall:
 - (1) Be fenced or otherwise enclosed
 - (2) Provide at least seventy-five square feet (75 sq. ft.) per child present on the playground at any time
 - (3) Include a shady area or structure where children can get out of direct sunlight
 - (4) Have an outside exit
 - (5) Be well-drained
 - (6) Be free of hazardous objects or trash
 - (7) Include opportunities for outdoor play activities appropriate to the age of children in care
- (d) Commercially manufactured outdoor area and playground materials and equipment shall:
 - (1) Be installed, maintained, and used according to manufacturer's guidelines, and
 - (2) (A) Meet the applicable requirements as defined in this section, Section 403, and Section 405 or
 - (B) (i) Be certified to meet ASTM International standards or Consumer Product Safety Commission standards for playgrounds for the applicable age range
 - (ii) ASTM standards for home playground equipment or Consumer Product Safety Commission standards for outdoor home playgrounds shall apply to licensed child care family homes
 - (iii) ASTM standards for public playgrounds or Consumer Product Safety Commission standards for public playgrounds shall apply to child care centers
- (e) Outdoor area materials and playground equipment that do not meet the applicable ASTM International or Consumer Product Safety Commission standards, including but not limited to home-made equipment, defined in Section 404(d)(2)(B) shall:
 - (1) Meet the requirements defined under Section 403
 - (2) Be free of:
 - (A) Crush or shearing points or deterioration on moving parts
 - (B) Loose fastening devices or worn connections
 - (C) Exposed bolt ends
 - (D) Lead paint
 - (E) Damage, breaks, or deterioration that present serious threat to children's safety
 - (3) Meet all other requirements of this subpart
- (f) The following equipment shall not be used:
 - (1) Wading pools filled with water
 - (2) Heavy molded swings such as animal figure swings
 - (3) Free-swinging ropes
 - (4) Swinging exercise rings
 - (5) Trapeze bars
 - (6) Swings attached to a composite structure

Commented [19]: Note: There was extensive conversation about the appropriate rules for outdoor environments that we recommend should continue in a more structured fashion.

We revised the language to explicitly allow outdoor materials and equipment that "aren't" ASTM or CPSC certified "if" those materials met other standards of safety. The idea was to create flexibility and space for safe home-made materials and encourage natural playscapes. Feedback we received was generally positive, with a few exceptions:
- A licensing supervisor was concerned that creating an alternative route to ASTM and CPSC could create risk and places onus on the licensing specialist to assess safety of equipment and materials if not ASTM or CPSC certified
- Several providers who favor nature-based outdoor play environments were concerned that the rules remain too restrictive and risk averse; one provider emphasized that there are other ways to manage risk through training and ratios

In addition to these comments, we also received concerns about cost, scope, and burden of outdoor area requirements along the same lines as the challenges that surfaced during our 2023 conversations.

- (7) Wood or metal swing seats
- (8) Balance beams higher than twelve inches (12")
- (g) The following equipment shall only be used under the following circumstances:
 - (1) Tire swings are the only permitted multioccupancy swings designed to hold more than one (1) child
 - (2) Ball pits shall only be used for therapeutic use if supervised by the therapist on a one-on-one basis
 - (3) Trampolines shall only be used for therapeutic use if supervised by the therapist on a one-on-one basis
 - (4) Merry-go-rounds shall only be used if they:
 - (A) Are portable and not designed to be anchored
 - (B) Have handgrips or other secure means of holding on
 - (5) Children under twenty-four (24) months shall not use:
 - (A) Swings other than swings that have fully enclosed bucket seats
 - (B) Balance beams
 - (C) Slides
 - (6) Children under sixty (60) months shall not use:
 - (A) Free standing arch climbers
 - (B) Vertical sliding poles
 - (C) Flexible grid climbing devices unless they:
 - (i) Are anchored at both ends; and
 - (ii) Have a means of transitioning from one (1) piece of equipment to the next.
- (h) Sand for playing shall be kept safe and clean
- (i) Sliding poles shall:
 - (1) Have no protruding welds or seams along the sliding surface; and
 - (2) Not change directions.
- (j) Seesaws without spring centering devices shall have:
 - (1) Shock-absorbing materials, such as partial tires that are:
 - (A) Embedded in the ground underneath the seats; or
 - (B) Secured to the underside of the seats.
 - (2) Hand holds that:
 - (A) Shall be provided for both hands at each seating position; and
 - (B) Shall not turn when grasped
 - (C) Shall not protrude beyond the sides of the seat on seesaws.
- (k) (1) Slides shall not have any spaces or gaps between the platform and the slide surface
- (2) Slides shall have a transition platform of at least:
 - (A) Fourteen inches (14") deep for children twenty-four (24) months and above
 - (B) Nineteen inches (19") deep for children six (6) to twenty-four (23) months
- (l) (1) Outdoor equipment used indoors shall meet and/or be used in alignment with the requirements identified in this section
- (2) This does not apply to equipment specifically designed for indoor use only

20 CAR § #-405. Outdoor areas and playgrounds: Use zones and protective surfacing

- (a) (1) Use zones and protective surfacing requirements are defined based on the highest accessible point of the piece of equipment and the protective surfacing material
- (2) "Highest accessible point" refers to the highest surface on the piece of equipment where children would stand or sit when the equipment is being used as intended
- (b) Unless otherwise specified, there shall be:

- (1) (A) Use zones and protective surfacing under and around all equipment that is over eighteen inches (18") in height at the highest accessible point
- (B) Swings and balance beams elevated above the ground shall have use zones and protective surfacing regardless of height
- (2) Use zones that extend a minimum of six feet (6') in all directions from the perimeter of the equipment
- (c) Use zone protective surfacing depths shall be as follows:

Minimum compressed loose-fill protective surfacing depths

Inches	Loose-Fill Material	Protects to Fall Height of:
6	Shredded/recycled rubber	10 feet
9	Sand	4 feet
9	Pea Gravel	5 feet
9	Wood mulch (non-CCA)	7 feet
9	Wood chips	10 feet

- (d) Different types of protective surfacing materials shall not be combined within the same use zone area
- (e) Hard surface materials, such as asphalt and concrete, shall not be used as base surfaces in the use zones except under commercial matting or other systems and products designed to be installed over hard surfaces as directed by the manufacturer
- (f) Use zones shall be free of obstacles onto which children may fall
- (g) Pea gravel used as use zone protective surfacing shall be:
 - (1) Smooth and rounded
 - (2) Not crushed rock or gravel with sharp edges
 - (3) Not over one-half inch (1/2") in diameter
- (h) Equipment variations
 - (1) Slides measuring six feet (6') or more, measured from the slide platform to the ground, shall have a minimum use zone of eight feet (8') from the exit end of the slide
 - (2) (A) Single-axis swings shall have a minimum use zone of two (2) times the distance between the swing pivot point and the playing surface to the front and rear of the swing
 - (B) Single-axis toddler swings shall have a minimum use zone of two (2) times the distance between the swing pivot point and the swing seat to the front and rear of the swing
 - (3) (A) Multi-axis swings shall have a minimum use zone of six feet (6') in all directions, plus the height of the swing's suspending rod or chain
 - (B) The use zone from the end of the structure must also extend a minimum of six feet (6') feet in all directions
- (i) (1) Outdoor equipment that requires use zones and protective surfacing shall require the same use zones and protective surfacing if used inside the facility.
- (2) This does not apply to equipment specifically designed for indoor use only.

20 CAR § #-406. Hazardous items

- (a) In addition to the requirements in this subpart, indoor and outdoor areas where care is provided and/or that are accessible to children shall be free of hazardous items

- (b) Unsanitary or dangerous materials, items, or objects that may pose a hazard to children's safety, health, or physical wellbeing shall be out-of-reach, locked, and/or otherwise inaccessible to children
 - (1) Out-of-reach is defined as positioned in a manner that prevents access by children considering their age, height, and developmental abilities.
 - (2) Locked is defined as secured by an electronic, mechanical, or other device that prevents unauthorized entry or access by children
- (c) (1) Children's bags shall be checked for hazardous items upon the child's arrival to the facility
 - (2) Hazardous items shall be removed from children's bags and returned directly to the parent, guardian, or authorized adult upon pick up
- (d) Illegal drugs or paraphernalia shall not be present at the facility at any time
- (e) **Child care centers:** The following shall not be present at a child care center at any time:
 - (1) Alcoholic beverages
 - (2) Guns, ammunition, or other weapons
- (f) **Licensed child care family homes:** The following items, if present in licensed child care family homes, shall be stored accordingly:
 - (1) Alcoholic beverages shall be stored out-of-reach of children
 - (2) Guns shall be unloaded, locked, and stored out of reach of children in an enclosed space
 - (3) Ammunition and other weapons shall be locked and stored out-of-reach of children in an enclosed space
- (g) All medications shall be stored:
 - (1) In the original container with a child-resistant cap
 - (2) At the proper temperature
 - (3) Separately from food
 - (4) (A) Locked and out-of-reach of children
 - (B) Medications shall be kept out-of-reach of children while dispensing
- (h) Poisonous substances shall be locked and stored out-of-reach of children
 - (1) This does not include substances that are used for routine cleaning, which may be stored out-of-reach of children
- (i) The following items shall be stored out-of-reach of children:
 - (1) Purses and bags belonging to personnel
 - (2) Detergents and facility cleaning supplies
 - (3) Diapering materials
 - (4) Facility first aid kit when not in use
 - (5) Any items not listed in (g) of this section that are labeled "keep out of reach of children"
- (j) Unsanitary garbage, soiled diapers, leftover food, and hazardous waste that presents risk of spread of disease shall be:
 - (1) Inaccessible to children in an enclosed container
 - (2) Removed daily from areas where care is provided
 - (3) Removed from facility grounds weekly
- (k) Supplies, materials, and objects that are accessible to children shall be:
 - (1) Free from entanglement, entrapment, choking, or suffocation hazards
 - (2) Kept in good repair
 - (3) Sanitized as necessary
 - (4) Used under supervision as applicable
- (l) (1) Pets or animals present at a child care facility shall:
 - (A) Be free of parasites and fleas

(B) Have current rabies and distemper immunizations and any vaccinations required by law

(C) Not present a serious threat to children's safety

(2) **Licensed child care family homes:** If pets present in the licensed child care family home do not meet the criteria defined in this subsection, they shall be kept out of areas where care is provided while children are present.

20 CAR § #-407. Toileting and diapering

- (a) **Child care centers:** Child care centers shall meet the following requirements:
 - (1) (A) For each group of fifteen (15) children, there shall be one (1) toilet and one (1) sink available for children's use
 - (2) The child care center shall provide a bathroom that opens directly into room(s) where care is provided to toddlers or within close proximity, such as an adjacent hallway, to ensure easy and safe access
 - (3) There shall be at least one (1) sink in each room in the center where care is provided for children under eighteen (18) months
 - (4) Each center licensed or approved for more than thirty (30) children over the age of eighteen (18) months shall have a separate restroom for personnel
- (b) **Licensed child care family homes:** Licensed child care family homes shall have at least one (1) toilet and one (1) sink available for children's use
- (c) Toilet tissue shall be located within reach of children when toileting.
- (d) (1) Cloth towels, paper towels, or forced air dryers shall be available for each child and located within reach of children
- (2) Cloth towels used for handwashing shall be laundered daily
- (e) (1) Potty chairs shall not be counted in lieu of conventional toilets
- (2) Potty seats may be used by children under twenty-four (24) months if potty seats are:
 - (A) Emptied, cleaned, and disinfected immediately after each use
 - (B) Placed in the same area as a conventional toilet and sink
- (f) Running water shall be available in all bathroom
- (g) Children shall be physically supervised at all times while diapering
- (h) A hand washing sink shall be available within diaper changing areas, which may include a nearby bathroom sink
- (i) When applicable, there shall be a safe structure used for diaper changing that shall be:
 - (1) Constructed of impervious (nonabsorbent) smooth surfaces that do not trap soil and are easily disinfected
 - (2) Used with a changing pad that is capable of being sanitized and used as a cushion between the child and the changing table surfaces
- (j) If a changing table is used for diapering, it shall be:
 - (1) Sturdy and stable
 - (2) Convenient height for use by direct care staff
 - (3) Equipped with a raised edge or other provision to reduce the risk of a child rolling or falling off the table
- (k) If a floor mat or pad is used for diapering, it shall be:
 - (1) Designed for diapering
 - (2) Used exclusively for this purpose and stored properly when not in use
- (l) Toilet tissue shall be located within reach of children when toileting.
- (m)(1) Cloth towels, paper towels, or forced air dryers shall be available for each child and located within reach of children

- (2) Cloth towels used for handwashing shall be laundered daily

Subpart 5. Personnel

20 CAR § #-501. Adult-to-child ratios and group sizes: Child care centers

- (a) The following adult-to-child ratios shall be maintained in child care centers

Ages of Children	Number of Staff	Number of Children
Birth – 18 months	1	5
18 months – 24 months	1	8
24 months – 36 months	1	12
36 months – 48 months	1	15
48 months – 60 months	1	18
60 months and above	1	20

- (b) The following group sizes shall be maintained in child care centers
- (1) Group size in child care centers shall be limited to two (2) times the number of children allowed with one (1) adult
 - (2) Groups containing children of different ages in child care centers must meet the adult-to-child ratio and group size requirements of the youngest child within the group as defined in (a) and (b) of this section
 - (3) For children thirty (30) months and above, ratios may be exceeded momentarily as long as children are never left unsupervised and at least one (1) adult remains in the supervision area with the children
 - (4) During rest time for children thirty (30) months and above, a minimum of fifty percent (50%) of the adults shall remain with the children in the supervision area, with a total of seventy-five percent (75%) of the adults remaining in the building
- (c) Group size limitations in child care centers may be temporarily extended:
- (1) During special group activities
 - (2) During times of scheduled pick-up and drop-off

20 CAR § #-502. Adult-to-child ratios and group sizes: Licensed child care family homes

- (a) The following adult-to-child ratios and group sizes shall be maintained in licensed child care family homes

Adult(s)	Number of Children	Ages of Children
ONE	A. 3-6	0-up (no more than 3 under 2 years)
	B. 7	0-up (no more than 2 under 2 years)
	C. 8	0-up (no more than 1 under 2 years)
	D. 9	2-up (no more than 3 between 2 and 3 years)
	E. 10	3-up
TWO	A. 3-6	0-up
	B. 7	0-up (no more than 4 under 2 years)
	C. 8	0-up (no more than 4 under 2 years)
	D. 9	0-up (no more than 4 under 2 years)
	E. 10-14	0-up (no more than 4 under 2 years)
	F. 15-16	0-up (no more than 2 under 2 years)
THREE	A. 7	0-up (no more than 5 under 2 years)
	B. 8	0-up (no more than 5 under 2 years)
	C. 9	0-up (no more than 5 under 2 years)
	D. 10-14	0-up (no more than 5 under 2 years)
	E. 15-16	0-up (no more than 4 under 2 years)

- (b) Group size limitations in licensed child care family homes may be temporarily extended:
- (1) During special group activities
 - (2) During times of scheduled pick-up and drop-off
- (c) In a licensed child care family home, the following shall apply to the operator/director's children:
- (1) The licensed child care family home's operator/director's own preschool children shall be included in the adult-to-child ratio and group size
 - (2) The licensed child care family home's operator/director's own school-age children are not considered in the adult-to-child ratio or group size
- (d) A licensed home may care for two (2) school-age children for a time not to exceed a total of three (3) hours per day before or after a school day
- (1) These two (2) children shall not be counted in the adult-to-child ratio.
 - (2) School-age children who are in care at times other than before or after a school day shall be included in the adult-to-child ratio.
 - (3) These same two (2) children may stay all day in care and not be counted in the adult-to-child ratio due to emergency school closings

20 CAR § #-503. Facility roles and ratio eligibility

- (a) This section defines the conditions under which individuals within a facility may be counted toward the facility's adult-to-child ratios
 - (1) Individuals who may be counted toward the facility's adult-to-child ratio are considered direct care staff
- (b) Teachers, substitute teachers, directors/operators may be counted toward the facility's adult-to-child ratios if they:
 - (1) Meet the regulatory requirements defined in Section 302 and 303
 - (2) Meet the education requirements defined in Section 504 and training requirements defined in Appendix A
- (c) Support staff may be counted toward the facility's adult-to-child ratios if they:
 - (1) Meet the regulatory requirements defined in Section 302 and 303
 - (2) Meet the training requirements defined in Appendix A
 - (3) Are under supervision of a teacher, substitute teacher, or director/operator who is at least twenty-one (21) years of age and meets the requirements defined in Section 503(b)
 - (4) Count toward the facility's adult-to-child ratio for no more than twenty (20) percent of a facility's operating hours (e.g., ten hours per week for a facility operating from 7AM through 5PM on weekdays)

20 CAR § #-504. Job role requirements

- (a) All individuals providing services under the direction of a child care facility shall be able to perform necessary job functions of their roles
- (b) Personnel shall complete all requirements specific to their role and job function as defined in Appendix A
 - (1) An individual within a facility may perform the functions of multiple job roles outside of their primary job role or the role for which they were hired depending on the facility's staffing structure and need
 - (2) The requirements defined in this part apply to all individuals who are performing the functions of that role, regardless of primary job role or the role for which they were hired
- (c) While present at the child care facility, all individuals providing services under the direction of a child care facility shall not:
 - (1) Engage in behavior that could be viewed as sexual, dangerous, exploitative, or physically harmful to children
 - (2) Use profanity or speak in an abusive manner
 - (3) Consume or be under the influence of illegal drugs, alcohol, or any medications that impair their ability to perform necessary job functions of their positions.
- (d) Licensees/owners, directors/operators, and site supervisors shall be at least twenty-one (21) years of age
 - (1) All other personnel shall be at least eighteen (18) years of age
 - (2) Exceptions are permitted for individuals sixteen (16) or seventeen (17) years of age who are not performing the functions of direct care staff, directors/operators, or site supervisors
- (e) Teachers and substitute teachers shall have a high school diploma or GED
- (f) All teachers, substitute teachers, and operators/directors shall be registered with the Office of

Early Childhood professional development registry within thirty (30) days of hire

- (g) **Child care centers:** Operators/directors and site supervisors shall attend new director's orientation within six (6) months of employment
- (h) **Child care centers:** Operators/directors of child care centers shall provide documentation of one (1) of the following educational levels:
 - (1) Bachelor's degree or higher degree in early childhood, child development, or a related field from a regionally accredited college or university.
 - (2) Bachelor's degree in a nonrelated field from a regionally accredited college or university plus one (1) of the following
 - (A) Four (4) years of experience as a teacher, substitute teacher, or director
 - (B) Child development associate credential;
 - (C) Birth – preK credential;
 - (3) Associate degree in early childhood, child development, or a related field, plus six (6) years of experience as a teacher, substitute teacher, or director
 - (4) High school diploma or GED plus eight (8) years of experience as a teacher, substitute teacher, or director and completion of one (1) of the following within two (2) years of employment
 - (A) Child development associate credential
 - (B) Birth – preK credential
 - (C) Director credential or the equivalent
 - (D) Technical certificate in early childhood education

20 CAR § #-505. Supervision and behavior guidance

- (a) Personnel supervising children shall engage in play activities and have meaningful, positive interactions with children that include frequent rich social exchanges during routine care and throughout the day.
- (b) Supervision of children shall be appropriate to the individual age and needs of each child.
- (c) Personnel supervising children shall:
 - (1) Assure the safety of children in their care
 - (2) Remain alert and attentive
 - (3) Respond promptly to all potential concerns in the supervision area
 - (4) Limit cell phone use while supervising children to emergency use only
- (d) **Child care centers:** In child care centers, at all times:
 - (1) Children shall be under direct supervision of direct care staff
 - (2) Direct care staff supervising children shall be physically positioned to such that children in line-of-sight
- (e) **Licensed child care family homes:** In licensed care family homes:
 - (1) When children cannot be directly supervised:
 - (A) Children shall be frequently physically observed and monitored
 - (B) Facility personnel shall be able to hear and/or see children at all times
 - (2) Children shall be under direct supervision of facility personnel while in the outdoor play area and in the kitchen area while any cooking is occurring
- (f) Personnel shall deploy behavior guidance practices that are:
 - (1) Individualized for each child;
 - (2) Relationship-based and support consistency;
 - (3) Appropriate to the child's level of understanding; and
 - (4) Grounded in positive reinforcement and supporting children to develop inner controls and self-regulation to manage their own acceptable behaviors.

- (g) (1) Punishment that is humiliating, frightening, painful, physical in nature, or psychologically detrimental shall not be administered to children.
- (2) In addition to the prohibited behavior guidance approaches stated in (f)(1) of this section, the following are unacceptable punishment and behavior guidance measures that shall not be used with children
 - (A) Sustained restraint or isolation
 - (B) Yelling, profane, or verbally abusive language
 - (C) Denying food or access to the toilet, physical activity, or scheduled outdoor time
 - (D) Covering children's faces
 - (E) Forcing or bribing children to eat
- (3) Children shall not be punished for behaviors associated with or that are a result of:
 - (A) Rest
 - (B) Toilet training
 - (C) Illness
- (i) The length of time a child is placed in time-out shall not exceed one (1) minute per year of the child's age. Time out shall not be used for children under two (2) years of age.

Subpart 6. Health and Nutrition

20 CAR § #-601. Illness and injury

- (a) No child, personnel, or other adult who has a contagious or infectious disease shall be admitted to the facility
- (b) Within fifteen (15) days of enrollment of a child, the child care facility shall verify that the child has been immunized as required by the Department of Health and the Department of Education or the child cannot remain in care (Arkansas Code § 20-78-206, as amended by Acts 1997, No. 870).
- (c) Children shall be temporarily excluded from care if direct care staff determine that the child is exhibiting an illness that:
 - (1) Prevents the child from participating comfortably in activities
 - (2) Results in a greater need for care than the childcare staff can provide without compromising the health and safety of the other children
 - (3) Poses a risk of spread of harmful diseases to others
 - (4) Reflects any of the symptoms defined in Administrative Policy 601A
- (d) The child's parent or legal guardian shall be directly contacted as soon as possible when the child is excluded from care
- (e) (1) Temporarily excluding child from care does not constitute providing sick care services
- (2) Requirements for child care centers offering sick care services are defined in Section 1105
- (f) (1) Children or adults who are confirmed to have or suspected of any of the communicable diseases defined in Administrative Policy 601B shall not be admitted to the facility
- (2) If a child or adult is confirmed to have or suspected of any of the communicable diseases defined in Administrative Policy 601B the case shall be reported within twenty-four (24) hours to:
 - (A) The local county health unit or the toll-free reporting system
 - (B) The Child Care Licensing Unit
 - (C) Parents and guardians of all children attending care
- (g) Injuries or illnesses that require medical attention shall be:

- (1) Addressed with the appropriate medical care immediately
- (2) Reported to the child's parent(s) or guardian(s) immediately
 - (A) Information reported to the child's parent(s) or guardian(s) should follow the information requirements defined in Section 801 Subsection (c)
- (3) Reported to the Child Care Licensing Unit within twenty-four (24) hours
- (h) Children shall be protected from overexposure to the sun
 - (1) Sunscreen shall be used if needed and as directed by the parent or guardian
 - (2) Suntan lotions and sunscreens used for infants, toddlers, and preschool children shall be administered by direct care staff
- (i) The facility shall have a first-aid kit containing the items defined in Administrative Policy 601C
 - (1) The first aid kit shall be stored out-of-reach of children when not in use

20 CAR § #-602. Administration of medical care plans

- (a) Children with health care needs who require scheduled medical care or medical care administered on an emergent or as-needed basis shall have a medical care plan that describes the medical treatment to be administered while the child is under the care of a child care facility
- (b) If a child has an Individualized Health Plan, Emergency Care Plan, medical treatment defined as part of an Individualized Education Program, or other medical treatment plan, those plans shall serve as the medical care plan for the purposes of this section if the information required per Section 602 Subsection (e) and (f) is included within the plan
- (c) A child's parent or guardian shall share the child's medical care plan with the facility licensee/owner or designee in writing in physical or digital copy
- (d) Medical care plans shall only be administered by facility personnel with the appropriate training
- (e) The medical care plan shall clearly state:
 - (1) Whether it is a scheduled medical plan or an emergent medical plan
 - (2) Start and end dates of the medical care plan, if applicable
 - (3) Symptoms and parameters under which medical care is to be administered
 - (4) Directions for administration of medical care named within
- (f) In addition to the requirements defined in Section 602 Subsection (e), if a child's medical care plan requires administration of medication, the medical care plan shall include for each medication:
 - (1) Name of medication
 - (2) Type of medication
 - (3) Symptoms and parameters under which the medication is to be administered
 - (4) Dosage of administration of medication
 - (5) Duration for which medication should be administered
- (g) The medical care plan shall be:
 - (1) Physically or digitally signed by the parent or guardian and licensee/owner or designee
 - (2) Maintained according to the requirements defined in Section 902
 - (3) Updated at least annually and as often as the child's medical needs or care plan changes
- (h) Medication administered to children as part of a medical care plan shall be:
 - (1) Unexpired
 - (2) Labeled with the child's name
 - (3) Stored according to the requirements in Section 406

- (4) Returned to the parent or properly disposed of when:
 - (A) The child withdraws from the facility
 - (B) The medication expires
- (i) Ibuprofen or acetaminophen may be provided by the facility if the child's parent or guardian has given digital or physical written, dated, and signed permission for the facility to do so
- (j) No medication shall be administered to children in dosages that exceed the recommended dosage stated on the medication bottle
- (k) Each time a medical care plan or medication is administered, including ibuprofen or acetaminophen, the administering personnel shall sign and share with the child's parent or guardian a digital or physical written record with:
 - (1) Date and time medical care plan and/or medication was administered
 - (2) Description of care provided
 - (3) Dosage of medication administered, if applicable
 - (4) If emergent medical care, the symptoms demonstrated that warranted medical care administration
- (l) (1) The requirements in this section do not preclude the licensee/owner or designee from refusing to administer a medical care plan
- (2) If a licensee/owner or designee refuses to administer a medical care plan, the licensee/owner or designee shall notify the child's parent or guardian within twenty-four (24) hours through physical or digital written notification

20 CAR § #-603. Compliance with the Clean Indoor Air Act of 2006

- (a)(1) Child care facilities shall comply with the Clean Indoor Air Act of 2006, Arkansas Code § 20-27-1801 et seq.
- (2) Smoking, including e-cigarettes, in a child care facility is prohibited at all times.
- (3) This includes:
 - (A) All areas of the facility, regardless of whether children are in care, including time periods such as nights, weekends, holidays, and more including office areas or other areas of the facility that share the same ventilation systems;
 - (B) Outdoor play area or areas;
 - (C) Other outdoor areas when children are present; and
 - (D) In any vehicle used to transport children, whether children are present in the vehicle or not.

20 CAR § #-604. Sanitary practices

- (a) Personnel and children's hands shall be washed with running water and soap:
 - (1) As necessary
 - (2) Before eating
 - (3) After toileting
 - (4) After each diaper change
 - (5) After handling or coming into contact with:
 - (A) Bodily secretions, such as urine, fecal matter, vomit, or blood, or materials contaminated by bodily secretions
 - (B) Unsanitary garbage
 - (C) Food
 - (D) Any waste or product that presents risk of spread of disease

- (b) In addition to Subsection (a) of this section, personnel's hands shall be washed with running water and soap:
 - (1) Immediately prior to or upon entering an area where care is being provided
 - (2) Before and after administering medical care
 - (3) Before and after preparing or serving food
- (c) When handling blood or materials contaminated by blood, personnel shall
 - (1) Use gloves
 - (2) Properly dispose of any contaminated materials and blood immediately
 - (3) Wash hands with running water and soap even after gloves are used
- (d) The use of hand sanitizer shall not be a replacement for soap and running water
- (e) The following requirements shall apply when children have soiled or wet diapers or clothing
 - (1) Soiled or wet diapers or clothing shall be removed from children and replaced with clean, dry diapers or clothing
 - (2) Soiled or wet diapers or clothing shall be sanitarily disposed of or bagged to be sent home
 - (3) Soiled clothing, cloth diapers, and diaper covers or plastic pants belonging to children shall be bagged and sent home daily
 - (A) Solid waste shall be removed from items prior to bagging to send home

20 CAR § #-605. Food storage, preparation, and feeding practices

- (a) **Licensed child care family homes:** A licensed child care family home licensed for eleven (11) or more children, if food is prepared for the children in the home, shall provide a current verification of approval by the Arkansas Department of Health, Sanitation Services
- (b) In the context of this subpart, "food" refers to solid food, formula, breastmilk, and any other items that would be considered meal components under the nutrition standards for the United States Department of Agriculture (USDA) Child and Adult Care Food Program (CACFP) unless otherwise specified
- (c) The following requirements apply to food and drink storage
 - (1) Breastmilk, formula, and perishable food and drinks shall be properly refrigerated
 - (2) Refrigerator(s) and freezer(s) used for food and drink storage shall have visible, working thermometers and shall be maintained at the following temperatures
 - (A) Refrigerator(s): Forty-one degrees (41°) or below
 - (B) Freezer(s): Zero degrees (0°) or below.
 - (3) Food and drinks shall be stored:
 - (A) In their original containers or a closed container
 - (B) Out-of-reach of children
 - (4) Food and drinks shall not be stored:
 - (A) Under sinks
 - (B) With chemicals, toxins, or medicines
- (d) Food and drinks shall be:
 - (1) Prepared, distributed, and served under sanitary conditions
 - (2) Served on individual dishware that can be sanitized or discarded
- (e) The following requirements apply to dishware used for serving food and drinks, including plates, glasses, utensils, and bottles:
 - (1) Dishware used for serving food and drinks shall be cleaned or disposed of after use
 - (2) Bottles, cups, and utensils shall be sanitized or disposed of after use
 - (3) Children shall not share the same bottle, sippy cups, or eating utensils
 - (4) Bottles and sippy cups shall be labeled with the child's name

- (f) The following requirements apply to the preparation of bottles, formula, and breast milk:
 - (1) Water used for the preparation of formula shall not come from the hot water supply
 - (2) Microwaves shall not be used for heating bottles
- (g) The following requirements apply to feeding practices:
 - (1) Bottles shall not be propped at any time
 - (2) Children under six (6) months of age shall be held while being fed
 - (3) Children six (6) months of age and older shall be held if needed while being fed
 - (4) Children between six (6) and twelve (12) months who are no longer held for feeding shall use in any of the following according to the manufacturer's instructions:
 - (A) Low chairs at low tables
 - (B) Infant seats with trays
 - (C) Highchairs with wide bases
 - (5) Tables and chairs, highchairs, or other comfortable seating options designed for children shall be used during snack and meal time and for the duration recommended by the manufacturer

20 CAR § #-606. Food and nutrition

- (a) Children shall have access to drinking water from:
 - (1) A water supply that meets Arkansas Department of Health Standards for drinking water and that is not a hot water supply; or
 - (2) Commercially produced bottled water
- (b) Children shall not be forced to eat
- (c) (1) Children (12) months and older shall be served snacks and meals based on their hours in care:
 - (A) Children in traditional care hours (6AM - 7PM) shall be served midmorning snack, lunch, and midafternoon snack
 - (B) (i) Breakfast may be served in lieu of a midmorning snack provided there are no more than three (3) hours between the beginning of breakfast and the beginning of lunch
 - (C) Children in evening care (7PM - midnight) shall be served supper and an evening snack
 - (D) Children in night care (midnight - 6AM) and any children who arrive to the facility prior to 7AM
- (2) Snacks and meals provided by the facility shall meet the United States Department of Agriculture (USDA) meal pattern food guidelines for children above twelve (12) months, defined in Administrative Policy 606A
- (d) Food menus shall be made available to parents and guardians.
- (e) Children under twelve (12) months shall be fed according to a routine agreed upon by the facility and the child's parent or guardian
 - (1) Feedings shall, at a minimum, meet the meal portion size, content, and frequency requirements defined in USDA meal pattern food guidelines for children under twelve (12) months, defined in Administrative Policy 606B
 - (2) (A) Bottle feedings shall be documented in physical or digital format according to the requirements defined in Section 902 Subpart (c)(9)
 - (B) Bottle feedings shall be documented for all children who are fed bottles, including children above twelve (12)
- (f) The facility is permitted to serve additional meals, snacks, or feedings in response to children's hunger cues and individual needs
- (g) (1) All food brought from outside sources shall be:

Commented [20]: Note: We removed the requirement that sack lunches brought from home had to be supplemented to meet CACFP standards, which was a common concern. If a provider receives CACFP funding and decides not to supplement, there will likely be implications for CACFP.

- (A) Commercially purchased and in its original packaging, as applicable; or
- (B) Prepared in and transported from a kitchen approved by the Arkansas Department of Health
- (2) The following foods from outside sources are permitted:
 - (A) Children's individual meals or snacks brought from home
 - (B) Fruits and vegetables that meet USDA preparation guidelines for the ages of children
- (h) Adults in the children's presence shall not consume food or beverages that are not available to children with the exception of beverages that are contained in:
 - (1) Unmarked and unbranded containers; or
 - (2) Containers with brandings or markings unrelated to any food or beverage
- (i) Children under twenty-four (24) months shall not be fed foods that may cause choking, including:
 - (1) Hard candy
 - (2) Raw carrots
 - (3) Hot dogs
 - (4) Nuts
 - (5) Seeds
 - (6) Popcorn
 - (7) Foods greater than one-half inch (½") in size

Commented [21]: Note: The previous rule required all food brought from outside sources should "be in an individual, commercially prepackaged container." We clarified to allow fruit and vegetables.

Subpart 7. Program

20 CAR § #-701. Environment

- (a) Indoor and outdoor environments shall be physically arranged to foster developmentally appropriate learning, activities, and experiences for children
- (b) (1) Children shall have access to a variety of safe age-appropriate supplies, materials, and equipment designed to facilitate child's progression toward critical developmental milestones
- (2) Home-made supplies and materials that meet the requirements in Section 404 are permitted

20 CAR § #-702. Routines and experiences

- (a) Children shall have experiences and activities that take place on a schedule and timeline appropriate to their age and development
 - (1) Children thirty-six (36) months and above shall have structured, consistent routines of experiences and activities
- (b) Information about each day's planned activities and timing shall be shared with and made accessible to personnel and parents and guardians
- (c) Children's experiences and activities shall be:
 - (1) Guided by playful and responsive interactions and engagements with direct care staff
 - (2) Primarily self-selected activities in individual or informal small groups
- (d) Facilities shall provide children with daily opportunities for:
 - (1) Active play
 - (2) Quiet time
- (e) Children thirty-six (36) months of age and older shall have thirty (30) minutes per day of moderate to vigorous physical activity
- (f) Children shall have at least one (1) hour per day of scheduled rest periods
 - (1) Children who do not fall asleep during schedule rest times shall be permitted to participate in quiet activities
 - (2) Scheduled rest times shall not exceed two (2) hours

- (3) Children shall not be prohibited or prevented from falling asleep or resting, even if total rest time exceeds two (2) hours
- (g) Children shall have scheduled daily opportunities for outdoor play
 - (1) Children thirty-six (36) months of age and older shall have at least one (1) hour of outdoor play per day
 - (2) For children under thirty-six (36) months of age:
 - (A) Outdoor play shall be offered for a duration that is appropriate to the child's growth and development
 - (B) Outdoor play may include riding in a carriage or stroller
 - (C) Gross motor play options shall be offered while outdoors
 - (3) Outdoor play shall occur when the conditions do not present a health and safety risk and duration and timing should be adjusted if such a risk is presented
 - (A) When the heat index is forecasted to be ninety degrees Fahrenheit (90° F) or above, outdoor play should be scheduled during early morning hours or the length of time spent outdoors should be reduced
 - (B) When outdoor play occurs during the winter months and when temperatures are extremely cold, the time scheduled for outdoor play should be reduced or suspended depending on the temperature and other weather conditions.
 - (C) Children shall be monitored for heat stress or excessive cold
- (h) Activities and experiences may simultaneously meet multiple requirements as defined in this subsection
- (i) Activities and experiences that involve screen time shall meet the following requirements:
 - (1) Shall be prohibited for children younger than two (2) years of age
 - (2) Shall be limited to educational programs that are age-appropriate
 - (3) Shall not be required of children and be offered alongside alternative activity choices
 - (4) Shall not exceed one (1) hour per day per child with exception of:
 - (A) Periods of educational learning using screen time may not exceed two (2) hours per day per child
 - (B) Special events or occasional viewing of age-appropriate programs or movies may not exceed two (2) hours per day per child

Commented [22]: Note: This time limit is in the current rules and received a good deal of pushback from reviewers.

Subpart 8 - Facility/Family Interactions

20 CAR § #-801. Facility obligations

- (a) Parents and guardians shall have access to their child at all times when their child is present at the child care facility
 - (1) Access to children shall be defined by any court-ordered parental agreements shared with the facility
 - (2) Court-order parental agreements shall be shared with the facility in writing through digital or physical copy
- (b) Parents and guardians of children who attend the child care facility shall have access to digital or physical written information about facility activities and opportunities for participation
- (c) (1) Written documentation of any accidents, incidents, or injuries at the facility involving children, as described in Section 902 Subsection (c)(10) shall be shared with the parent or guardian of the involved children within twenty-four (24) hours of the occurrence or incident
 - (2) There shall be written documentation of each distinct occurrence or incident

- (3) Parents and guardians shall acknowledge in writing receipt of the documentation of each distinct occurrence or incident
- (4) Written documentation and signatures shall be accepted in physical or digital format as in compliance with the requirements of this subsection
- (d) Parents and guardians shall receive written information on:
 - (A) Shaken baby syndrome in accordance with Carter's Law, Arkansas Code § 20-9-1401 et seq.
 - (B) The child care facility's behavior guidance policies
- (2) Parents and guardians shall acknowledge in writing receipt of this information
- (3) Written documentation and signatures shall be accepted in physical or digital format as in compliance with the requirements of this subsection

20 CAR § #-802. Family information

- (a) The facility shall secure from each child's parent or guardian the information and permissions defined in this section
- (b) All information and permissions shall be secured in writing, with digital and/or physical copies maintained by the facility per the requirements described in Section 903
- (c) Upon facility enrollment and as applicable, the facility shall secure the following information from each child's parent or guardian
 - (1) The child's name, date of birth, address
 - (2) Names and telephone numbers of:
 - (A) Child's parent(s) or guardian(s)
 - (B) All persons authorized to pick up the child
 - (C) Individual to contact in event of an emergency and the parent or guardian cannot be reached
 - (3) Names of individuals who are not authorized to pick up the child, if applicable
 - (4) Child's preferred physician or emergency care facility
 - (5) Pertinent medical history on the child
 - (6) An authorized record of up-to-date immunizations or documentation of a religious, medical, or philosophical exemption from the Arkansas Department of Health
 - (7) Medical care plan and documentation related to care for the child, if applicable
 - (8) Legal documentation related to care for the child, if applicable
 - (9) Instructions regarding feeding routines for children under twelve (12) months, if applicable
 - (10) Instructions regarding diapering practices, if applicable
- (d) (1) Upon facility enrollment, the facility shall secure permission from each child's parent or guardian if any of the following requests are made:
 - (A) Authorization for the facility to record photographs or videos of the child for purposes of sharing with the child's parent and guardian
 - (B) Authorization for the facility to place photos or videos of the child on social media or other websites for marketing purposes
 - (C) Authorization for child use of swimming pools or natural pools
 - (D) Authorization of facility transportation of child
 - (E) Authorization of emergency medical care and transportation of child for emergency treatment
 - (F) Authorization of administration of medical care plan and/or administration of medication as defined in Section 602
 - (G)(i) Authorization for child participation on field trips

- (ii) Parent or guardian authorization shall be secured for each distinct field trip
- (2) (A) The intention of Section 802 Subsection (d)(1) is to ensure that facilities have documented permission of authorization for the listed activities
- (B) Section 802 Subsection (d)(1) shall not be interpreted to mean that parents or guardians are required to grant authorization for the listed activities

Subpart 9. Records and Documentation

20 CAR § #901. Record and documentation requirements.

- (a) All records named in this subpart shall be made available to the Child Care Licensing Unit on request.
- (b) Records shall be maintained for three (3) years unless otherwise stated
- (c) (1) Records shall be maintained on-site, digitally, and/or off-site as stated in this subpart
- (2) Records uploaded and maintained on OEC licensing software meet the requirement for being maintained digitally and do not need to be maintained separately
- (d) The facility shall maintain daily attendance records on all children as follows:
 - (1) Children shall be signed in and out daily by a parent, guardian, or designee
 - (2) Electronic sign-in and sign-out systems will meet this requirement; and
 - (3) The record shall include the date and time of arrival and departure.

20 CAR § #902. On-site or digital records and documentation

Facility, personnel, and child and family records maintained on-site or digitally shall contain the following:

- (a) Facility records
 - (1) Attendance records on all children
 - (2) (A) Records of emergency drills as defined in Section 305 Subsection (g)(3)
 - (B) Records of emergency drills shall include for each drill conducted:
 - (i) Type of drill
 - (ii) Date of drill
 - (iii) Time of day of drill
 - (iv) Number of children participating in drill
 - (3) (A) Transportation rosters, if applicable
 - (B) Transportation rosters, if applicable, shall be maintained for one (1) year
 - (4) Verification of current vehicle registration, if applicable
 - (5) Verification of required commercial vehicle insurance coverage, if applicable
 - (6) Plans and procedures of emergency preparedness;
 - (7) Procedures for reporting allegations of child maltreatment
 - (8) Procedures for reporting suspected licensing violations
 - (9) Behavior guidance practices
- (b) Personnel records
 - (1) Documentation of initiation of regulatory checks as required in Sections 302 and 303 and the results obtained when received
 - (2) Verification of completion of the required transportation training and a readable, current copy of the driver's license for all personnel who transport children.
 - (3) Verification of first aid or cardiopulmonary resuscitation (CPR) for applicable personnel

(c) Child and family records

(1) Child enrollment application form that includes:

- (A) Child's name;
- (B) Date of birth;
- (C) Address;
- (D) Name of parent or guardian;
- (E) Telephone numbers of home and business;
- (F) Work hours of parents or guardians; and
- (G) Date of enrollment in facility

(2) Names and telephone numbers for all persons authorized to pick up child

(3) Names and telephone numbers of home and business of a responsible person to contact in an emergency if the parent or guardian cannot be located promptly

(4) Names and telephone number of child's preferred physician or emergency care facility

(5) (A) Written permission of parent or guardian authorizing transportation of child, if applicable

(B) This authorization shall accompany the child any time they are transported

(6) (A) Written permission of parent or guardian authorizing emergency medical care and transportation of child for emergency treatment

(B) This authorization shall accompany children any time they receive emergency treatment

(7) (A) Written permission of parent or guardian authorizing the child to be taken on specific field trips, if applicable

(B) Field trip permission slips may be maintained on-site, digitally, or off-site following the completion of the specific field trip

(8) (A) Written permission of a parent or guardian authorizing the child to use swimming pools or natural pools

(B) Swimming permission slips may be maintained on-site, digitally, or off-site following the completion of the activity

(9) (A) Infant feeding documentation, if applicable

(B) Infant feeding documentation, if applicable, shall be maintained for one (1) year

(10) (A) Written documentation of all accidents, incidents, injuries, and the like

(B) Documentation of the occurrence shall include:

- (i) Name(s) of child(ren) involved in occurrence
- (ii) Date and time of occurrence
- (iii) Location and area of occurrence
- (iv) Description of occurrence
- (v) Statement signed by the parent or guardian stating they have received documentation of the occurrence and the date and time of receipt

(11) (A) Written documentation of any occurrences when the child was placed in sick care by facility personnel while present at the child care facility

(B) Documentation of the occurrence shall include:

- (i) Name of the child who was placed in sick care
- (ii) Date and time when child was placed in sick care
- (iii) Description of the observations or occurrence that led to the child being placed in sick care
- (iv) Statement signed by the parent or guardian stating they have received documentation of the occurrence and the date and time of receipt

- (12) Medical care plan and documentation that has been given to the facility by the parent or guardian related to the care of the child that includes
 - (A) Information on the child's specific condition or illness
 - (B) Clear instructions for implementation of the medical care plan while the child is present at the facility, if applicable
 - (C) Signed statement of the parent or guardian granting facility personnel permission to implement the medical care plan, if applicable
- (13) Legal documentation that has been given to the facility by the parent or guardian related to care of the child

20 CAR § #-903. On-site, digital, or off-site records and documentation

Facility, personnel, and child and family records maintained on-site, digitally, or off-site shall contain the following:

(a) Facility records

- (1) Verification of required childcare liability insurance;
- (2) Verification of current pet vaccinations, if applicable;
- (3) Verification of annual state and local fire and health department approval;
- (4) Verification of zoning approval
- (5) Verification of annual approval by the Boiler Inspection Division of the Division of Labor;
- (6) Arkansas Manufactured Home Commission approval for double-wide manufactured homes, if applicable,
- (7) Licensing compliance forms;
- (8) Record of product recall and safety notices from the Consumer Product Safety Commission or Attorney General's office;
- (9) (A) Articles of incorporation, if applicable,
 - (B) Articles of incorporation, if applicable, shall be maintained as part of the facility's permanent record
- (10) Current list of names, addresses, and phone numbers of the board of directors, if applicable
- (11) Diagram of facility building or home with measurements of areas in which care is provided
- (12) Satellite image or diagram of playground with measurements

(b) Personnel records

- (1) Name, date of birth, address, and telephone number;
- (2) Date of employment and date of separation
- (3) Documentation of required education and/or experience
- (4) Role, function, and schedule
- (5) Documentation of completion of training and certification requirements

(c) Child and family records

- (1) Pertinent medical history on the child
- (2) An authorized record of up-to-date immunizations or documentation of a religious, medical, or philosophical exemption from the Arkansas Department of Health.
- (3) Documentation of the distribution of written information on shaken baby syndrome to parents and guardians must be maintained, as required by Carter's Law (Arkansas Code § 20-9-1401 et seq.).
- (4) Written permission from each child's parent or guardian that authorizes the facility to record photographs or videos of the child for purposes of sharing with the child's parent and guardian

- (5) Written permission from each child's parent or guardian that authorizes the facility to place photos or videos of the child on social media or other websites for marketing purpose

Subpart 10. Special Needs

20 CAR § #-1001. Individuals with Disabilities Education Act — Generally.

- (a) Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq.
 - (1)(A) It is a law ensuring services to children with disabilities throughout the
 - (B) The Individuals with Disabilities Education Act governs how states and public agencies provide early intervention, special education, and related services to eligible infants, toddlers, children, and youth with disabilities;
 - (2) It defines a child with special needs as:
 - (A) A child determined eligible for special services under Individuals with Disabilities Education Act for whom a current individualized family service plan or individualized education program exists; or
 - (B) A child whose physical condition has lasted or is expected to last at least two (2) years as diagnosed by a licensed medical or psychological examiner; and
 - (3) It is specified in Pub. L. No. 108-466 § 635(a)(16)(A) and (B) (Individuals with Disabilities Education Act as reauthorized) as:
 - (A) Children with disabilities, including children in public or private institutions or other care facilities, are educated to the maximum extent appropriate with children who are not disabled; and
 - (B) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of the child is such that the child is not achieving a satisfactory education in a regular class that provides supplementary aids and services.
- (b) All child care facilities are required by the Individuals with Disabilities Education Act to refer a child with any suspected delays or disabilities to the appropriate lead agency as determined by the child's age.

20 CAR § #-1002. Special needs requirements.

- (a) All child care facilities shall comply with all applicable provisions as specified in the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.:
 - (1) The facility shall enroll children with special needs without regard to disability.
 - (2) Programs are required to provide space and care for a child who can be placed in their facility with existing services, as well as added supports from special educational services, and as long as the health and safety of the child can be met;
 - (3) Staff shall provide care in the general classroom with children who are not disabled;
 - (4) The facility shall assist in facilitation of services required to meet the "special needs" of children in the center or in the classroom as specified on the individualized education program and individualized family service plan
 - (5) Facility staff, such as regular classroom staff, shall be a partner in the individualized family service plan (IFSP) and Individualized Education Plan (IEP) process;
 - (6) The facility shall allow service providers who are representatives of the Department of Human Services, the Division of Developmental Disabilities Services, or the Department of Education access to the facility to provide special services as prescribed on the plan to enable the plan to be implemented in the classroom (natural and least restrictive environment);
 - (7) The facility shall not charge special service providers for space or accept gratuities or payment for allowing special service providers to provide services in their facility;

- (8) The facility is not required to displace children or staff to make space available to special service providers;
- (9) In order for a special service provider to provide special services in the facility, the IFSP/IEP planning team under the authority of the Department of Education, and the division, shall identify the needed special services on the IFSP/IEP; and
- (10) Classroom staff shall reinforce the specified goals and objectives as part of the daily routine of the classroom.

20 CAR § #-1003. Infant and toddler special needs requirements.

- (a) To the maximum extent appropriate, children birth to two (2) years of age shall participate in early intervention services provided in natural environments.
- (b) When infants and toddlers cannot achieve satisfactory results from early intervention services in a natural environment, the provision of early intervention services shall occur in other appropriate settings as determined by the:
 - (1) Parent; and
 - (2) Individualized family service team

Subpart 11. Program-Specific Variations

20 CAR § #-1101. Program-specific variations.

- (a) The rules in this part apply to child care facilities with standard care services are for children from birth through sixty (60) months during traditional care hours
- (b) Program-specific variations defined in this subpart refer to complementary or as-needed care services that are offered in addition to the care services defined in Subsection (a) of this Section and are not the standard care services of the facilities to which the rules in this part apply
- (c) Program-specific variations are numbered according to the section with which they vary
- (d) Unless a variance is listed in this subpart, all basic requirements apply.

20 CAR § #-1102. School-age care

(a) School-age care in this section refers to care provided to school-age children and includes:

- (1) Care provided before and after a school-age child attends school
- (2) Extended care during school holidays and summer day camps

(b) Program 20 CAR § #-702

- (1) The program of activities shall:
 - (A) Be flexible
 - (B) Provide opportunities for a child to choose how to spend time in care; and
 - (C) Provide a variety of activities suitable to the age and interests of the child
- (2) School-age children who leave the childcare center to participate in other activities shall have written permission from the parents naming the:
 - (A) Activity;
 - (B) Time of leaving;
 - (C) Returning; and
 - (D) Method of transportation.

(c) Health and nutrition 20 CAR § #-601, 604, 606

- (1) Immunization records shall not be required for school-age children
- (2) Children arriving for after-school care shall be provided with a nutritious snack
- (3) Mid-morning snacks or breakfast shall be provided for all children who are in care for more than three (3) hours prior to lunch
- (4) Mid-afternoon snacks shall be provided for all children
- (5) Provisions shall be made for waterproof cots or mats if a school-age child becomes ill
- (6) Alternative methods of hand washing shall be provided if running water is not available

(d) Facility physical space 20 CAR § #-401, 407

- (1) A quiet time and a private place with appropriate equipment shall be provided for one-person activities, including resting and homework
- (2) Twenty-five square feet (25 sq. ft.) of floor space shall be provided for each school-age child.
- (3) If a facility utilizes the outdoors as its major program component for school-age children, covered pavilions and other roofed structures shall provide twenty-five square feet (25 sq. ft.) per child.
- (4) There shall be one (1) toilet and one (1) sink for every thirty (30) school-age children
- (5) Separate toilet facilities for boys and girls shall be provided

(e) Safety 20 CAR § #-307

- (1) Driver may be counted in adult-to-child ratio
- (2) There shall be a minimum of two (2) personnel present whenever more than twenty (20) school-age children are being transported

20 CAR § #-1103. Evening and night care: Child care centers

(a) Personnel 20 CAR § #-505

- (1) Personnel shall be awake at all times and shall have children in view at all times
- (2) No child under six (6) years of age shall be left alone or with another child while in the bathtub or shower

(b) Program 20 CAR § #-702 Evening quiet time activity shall be provided to each child arriving before bedtime

(c) Health and nutrition 20 CAR § #-601, 604, 606

- (3) Children who are in care overnight shall be provided with a breakfast prior to leaving for school or other activities.
- (4) Supper shall be provided to children during evening meal hours.
- (5) Snacks meeting the current United States Department of Agriculture guidelines shall be

provided to children in attendance for more than two and one-half (2 1/2) hours prior to bedtime

(6) Bed linens shall be changed at least once a week or daily when wet or soiled.

(7) Children shall have clean and comfortable sleeping garments for their individual use

(d) Facility physical space 20 CAR § #401, 407

(1) Bedtime schedules shall be established for children in consultation with the child's parent or guardian

(2) Storage space for clothing and personal belongings shall be provided within easy reach of the children.

(3) Individual beds or cots equipped with comfortable mattresses, sheets, pillows, pillow cases, and blankets shall be provided for children in all-night care.

(4) Mats may be used for children in evening care.

(5) The upper level of double-deck beds shall be allowed for children ten (10) years or older if a bed rail and safety ladder are provided.

(6) There shall be age-appropriate bathing facilities available for all children.

(7) For children two and one-half (2 1/2) years of age and older in night care, or after midnight, there shall be a bathtub or shower available.

(8) Bathtubs and showers shall be equipped to prevent slipping.

(9) Bathrooms shall be located near the sleeping areas.

20 CAR § #1104. Evening and night care: Licensed child care family homes

(a) The requirements in this section apply to licensed child care family homes when providing evening and night care

(b) Personnel shall remain awake at all times children are in care.

(1) Alternative compliance may be requested to allow the caregiver to sleep after the children are in bed for the night.

(2) For this request to be approved, consideration will be given to:

(A) The overall level of licensing compliance;

(B) The use of motion detectors or other alarms to alert the caregiver if children leave the sleeping area

(C) The ages, numbers, and sexes of the children in overnight care; and

(D) Written notification to parents that the caregiver will be sleeping during overnight care.

(3) Homes with only one (1) caregiver shall limit care to no more than two (2) shifts (eighteen (18) hours) per twenty-four-hour period.

(4) Homes offering twenty-four-hour care shall provide a schedule verifying that they have made provisions for a secondary caregiver to provide relief care for one (1) shift.

(5) Alternative compliance may be requested by caregivers who:

(A) Provide twenty-four-hour care; and

(B) Do not have a secondary caregiver.

(C) For this request to be approved, consideration will be given to the:

(D) Overall level of compliance with the licensing requirements; and

(E) Number and ages of children in care during the third shift.

(c) There shall be a plan for evacuating children to safety in case of fire or emergency.

(d) Children arriving in the daylight hours shall have outdoor play, weather permitting.

(e) Older children shall have time for reading or doing homework during the school year.

(f) Health and nutrition

(1) Children spending the night shall be served breakfast

(2) Drinking water shall be available to children during then night

(g) Facility physical space

(1) Bathing facilities shall be available

- (A) Hot water shall be available
- (B) Children shall not take baths together or share the same bath water.
- (C) Tubs or showers shall be cleaned after each use.
- (D) Children shall be given fresh washcloths and towels.
- (E) Preschool children shall never be left alone when bathing.
- (F) Privacy shall be ensured for school-age children.
- (G) Tubs or showers shall be cleaned after each use
- (2) Each child in night care shall be given a bed or cot with mattress or pad and a pillow.
 - (A) If linens become soiled, they shall be changed.
 - (B) Protective mattress covers shall be used and washed at least weekly.
 - (C) Each child's bed or cot shall have a cover available.
 - (D) Beds or cots shall be arranged at least one foot (1') apart.

20 CAR § #-1105. Part-time program variations: Child care centers

(a) Program 20 CAR § #-702

- (1) A rest period is not required for children who are in care for less than four (4) hours per day or who arrive shortly after lunch
- (2) Outside play may be scheduled for periods of less than one (1) hour daily.
- (b) **Health and nutrition, 20 CAR § #-606.** Facilities in operation for more than three (3) hours per day shall provide a snack that meets current United States Department of Agriculture guidelines.

20 CAR § #-1106. Sick care component: Child care centers

(a) Personnel 20 CAR § #-501

- (1) The following ratios shall be maintained at all times:
 - (A) Infant and toddler. One-to-three (1:3), maximum group size = six (6); and
 - (B) Preschool and school-age. One-to-five (1:5), maximum group size = ten (10).
- (2) Staff shall be separated in the same manner children are separated to prevent cross-infection
- (3) Director.
 - (A) If the component is part of a childcare facility, the program director shall be accountable to the facility director.
 - (B) If the component is an entity unto itself the program director may also be the facility director.
- (4) The program director shall have completed the following training:
 - (A) Communicable disease control;
 - (B) Recognition and care of usual childhood illness;
 - (C) Cardiopulmonary resuscitation (CPR) certification; and
 - (D) First aid certification.

(b) Health and nutrition 20 CAR § #- 606

- (1) The child shall be removed immediately from sick care when his or her condition meets one (1) of the excludable diseases or symptoms.
- (2) Children may be returned to standard care when
 - (A) A doctor's statement has been obtained; or
 - (B) The child is free of symptoms for twenty-four (24) hours
- (3) (A) All laundry shall be washed each day
 - (B) The items shall be placed in a plastic bag and labeled "contaminated" so necessary precautions can be taken
- (4) All toys shall be disinfected after each use
- (5) Personnel administering medical care shall:
 - (A) Administer medicine according to prescribed instructions;
 - (B) Take temperature frequently or as needed;

- (C) Monitor any changes in condition;
- (D) Record necessary medical, physiological data, or changes; and
- (E) Notify parents immediately if their child's condition changes significantly for the worse, especially if the condition meets one (1) of the excludable diseases or symptoms.

(c) Records 20 CAR § #- 902

- (1) The child's record shall contain information on the specific condition or illness placing the child in sick care
- (2) The record shall contain any recommendations for needed medical treatment and program or environment modifications that the child needs

(d) Facility physical space 20 CAR § #-402

- (1) If located in the same facility as day care, sick care shall be separate with a separate entrance and separate ventilation system
- (2) Children with respiratory illnesses shall be cared for in a separate space from children with gastrointestinal illness
 - (A) Any child with an undiagnosed condition shall be separated from other children to prevent cross-infection.
 - (B) A separate area can be defined by curtains, partitions, and more, if airborne transmission is not likely.
- (3) A hand-washing sink shall be available in each room
- (4) To prevent cross-contamination, a designated toilet shall be available to each sick care room.
- (5) No furniture, fixtures, equipment, and supplies designated for use in the sick care component shall be used or shared by well children.

Appendix A. New personnel continuing training requirements

Training Frequency – P: Prior to employment O: Within the first three months, T: Every 3 years, A: Annually

Training	Operator/ Director	Site Supervisors/ Teachers	Substitute Teachers	Support Staff	Adults with routine contact with children
Mandated reporter training	P	P	P	P	P
Facility emergency, evacuation, and child release procedures	P/A	P/A	P/A	P/A	P/A
Facility schedules and services	P	P	P	P	P
Proper supervision of children	O/A	O/A	O/A	O/A	O/A
Behavior guidance practices	O/A	O/A	O/A	O/A	O/A
Physical environment/hazards	O/A	O/A	O/A	O/A	
Safe sleep practices	O/T	O/T	O/T	O/T*	
Shaken baby syndrome	O/T	O/T	O/T	O/T*	
Medical care plans	O/T	O/T	O/T*	O/T*	
Transportation and car seat safety	O/T	O/T	O/T*	O/T*	
Child development	O/T	O/T	O/T		
Minimum licensing rules compliance	O/T	O/T			

Trainings marked with an asterisk are required only if applicable (e.g., personnel not responsible for transportation are not required to complete the transportation training).

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Administrative Policy	Section	Subsection	Description
Administrative Policy 202A	202	(a)(1)	List of information required in application. See Section 103 in 2020 Minimum Licensing Requirements for the list of information required in the licensing application packet.
Administrative Policy 202B	202	(b)(2)	List of information required in church-operated exemption (COE) request. See section 107 in 2020 Minimum Licensing Requirements for Child Care Centers for annual licensing fees.
Administrative Policy 205A	205	(c)(1)	The support plan outlines the relevant Minimum Licensing Rule and challenge that led to the noncompliance, the changes that must occur for a facility to be in compliance with the requirement, the technical assistance that will be provided to support the licensee in implementing those changes, any follow-up on behalf of the Child Care Licensing Unit, and the timeline for implementation.
Administrative Policy 205B	205	(g)(3)	Requirements for violation and accommodation documentation. Include reference to specific rule violated/accommodated, factual description of the nature of the violation/accommodation, rationale for violation/accommodation.
Administrative Policy 205C	205	(j)(3)	Process for developing and content in a corrective action agreement and content of corrective action agreement.
Administrative Policy 207A	207	(b)	Annual licensing fee amounts (See See Section 103 in 2020 Minimum Licensing Requirements for Child Care Centers for annual licensing fees. See Section 104 in 2020 Minimum Licensing Requirements for Licensed Child Care Family Homes for annual licensing fees.
Administrative Policy 207B	207	(d)	Timeline for fee payments. See Section 103 in 2020 Minimum Licensing Requirements for Child Care Centers for annual licensing fees. See Section 104 in 2020 Minimum Licensing Requirements for Licensed Child Care Family Homes for annual licensing fees.
Administrative Policy 210A	210	(e)	Office of Early Childhood's internal appeal process.
Administrative Policy 305A	305	(f)	List of required items in evacuation pack. See Section 1201 in 2020 Minimum Licensing Requirements for list of evacuation pack items.

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Administrative Policy 601A	601	(c)(4)	Illnesses that warrant separation or exclusion from a facility. See Section 1101 in 2020 Minimum Licensing Requirements for Child Care Centers. See Section 1102 in 2020 Minimum Licensing Requirements for Licensed Child Care Family Homes.
Administrative Policy 601B	601	(f)(1)	List of communicable diseases that require reporting to local county health unit. See Section 1101 in 2020 Minimum Licensing Requirements for Child Care Centers. See Section 1102 in 2020 Minimum Licensing Requirements for Licensed Child Care Family Homes.
Administrative Policy 601C	601	(i)	List of first aid kit required items. See Section 1101 in 2020 Minimum Licensing Requirements
Administrative Policy 606A	606	(c)(2)	Child care meal pattern. See Appendix C in 2020 Minimum Licensing Requirements for Child Care Centers. See Appendix A in 2020 Minimum Licensing Requirements for Licensed Child Care Family Homes.
Administrative Policy 606B	606	(e)(1)	Infant meal pattern See Appendix D in 2020 Minimum Licensing Requirements for Child Care Centers. See Appendix B in 2020 Minimum Licensing Requirements for Licensed Child Care Family Homes.