DISTRICT OF COLUMBIA DEPARTMENT OF HEALTH
AND
DISTRICT OF COLUMBIA DEPARTMENT OF HUMAN SERVICES

NOTICE OF FINAL RULEMAKING

The Directors of the Department of Health and the Department of Human Services, pursuant to the authority set forth in section 7 of the Child Development Facilities Regulation Act of 1998 (hereinafter "the Act"), effective April 13, 1999, D.C. Law 12-215, D.C. Official Code § 7-2036, and in accordance with Mayor's Order 2000-124, dated August 3, 2000, hereby give notice of their adoption of the following new Chapter 3 of Title 29 of the District of Columbia Municipal Regulations, governing the licensure and operating standards for child development facilities.

The purposes of this rulemaking are to protect the health, safety and well-being of children in licensed Child Development Facilities and to ensure the provision of developmentally appropriate programs to those children. These rules were developed by a community task force under the auspices of the Department of Human Services, and were then refined by the Department of Health. They were previously published as proposed rules on January 14, 2005, at 52 DCR 326, on October 6, 2006, at 53 DCR 8012, and on March 9, 2007, at 54 DCR 2155. In response to the first two publications, meritorious comments were received, whereupon the Department of Health, with the assistance of the Department of Human Services, engaged in successive periods of consultation and collaboration with stakeholders, and made amendments and revisions as suggested. In response to the third publication, no comments were received which necessitated any additional changes.

In accordance with section 20 of the Act, D.C. Official Code § 7-2049, the previously existing Chapter 3 of Title 29 of the District of Columbia Municipal Regulations (DCMR) is repealed and replaced by this rulemaking. Title 29 of the DCMR is hereby amended by substituting the following new Chapter 3:

300 GENERAL PROVISIONS

300.1 This Chapter is promulgated pursuant to the Child Development Facilities Regulation Act of 1998, effective April 13, 1999 (D.C. Law 12-215, D.C. Official Code §§ 7-2031 *et seq.*) (hereinafter “the Act”).

300.2 The purpose of this Chapter is to protect the health, safety and well-being of children in licensed Child Development Facilities and to ensure the provision of developmentally appropriate programs to those children.

300.3 Unless specifically exempted, the provisions of the Act and of this Chapter shall apply to every Caregiver and Child Development Facility, regardless of the name by which the Facility is designated.

300.4 A listing of licensed Facilities shall be maintained by the Department of Health and shall be made available to the public upon request.

300.5 Except as otherwise specified herein, each Child Development Facility that is licensed on the effective date of these rules shall have a period of one (1) year from the effective date of these rules to comply with any requirement contained within this Chapter.

301 EXEMPTIONS FROM LICENSURE

301.1 The provisions of this Chapter shall not apply to the following:

(a) Occasional babysitting in a babysitter's home for the children of one family;

(b) Informal parent-supervised neighborhood play groups;

(c) Care provided in places of worship during religious services;

(d) Care by a related person, as defined in section 399 of this Chapter; and

(e) Facilities operated by the federal government on federal government property; except that a private entity utilizing space in or on federal government property is not exempt unless federal law specifically exempts the Facility from District of Columbia regulatory authority.

302 LICENSING

302.1 Except as otherwise provided in this Chapter, no person shall either directly or indirectly operate a Child Development Facility without first obtaining a license from the Director of the Department of Health or its successor agency authorizing that operation.

302.2 A separate license shall be required for each Child Development Facility. When a Child Development Facility is located in separate buildings on the same grounds or premises and operated by only one licensee, separate licenses for each building shall not be required.

302.3 Each license shall be issued only for the premises and person(s) or entity(ies) named as applicants in the application, and shall not be valid for use by any other person(s) or entity(ies), or at any place other than that designated in the license.

302.4 Each license shall state: the name of the Facility; the license number and type; the address of the Facility; the name of the program; the license capacity for each age category of children; and the limitations, if any, on services authorized. Each Facility is required to comply with the provisions stated on its license unless otherwise authorized under this Chapter.

303 RIGHT OF ENTRY AND SUBPOENA POWERS

303.1 The Director and any other duly authorized official of the Department of Health, or of another agency of the District of Columbia having jurisdiction over, or responsibilities pertaining to, Child Development Facilities, after presenting official credentials of identification and authority issued by the District of Columbia, shall have the right, either with or without prior notice, to enter upon and into the premises of any Child Development Facility licensed under this Chapter, or for which an application for license has been made, in order to determine compliance with the Act and with this Chapter, and/or to facilitate verification of information submitted on or in connection with an application for licensure pursuant to provisions of the Act or of this Chapter. The conduct of the authorized official shall be such that entry and inspection shall take place with the least possible disruption to the child development program.

303.2 The right of entry and inspection shall also extend to any premises that the Director, or other duly authorized official of an agency of the District of Columbia having jurisdiction over, or responsibilities pertaining to, Child Development Facilities, has reason to believe are being operated or maintained as a Child Development Facility without a valid license, provided that no entry or inspection of any unlicensed premises shall be made without the permission of the individual in charge of the premises or unless a warrant is first obtained from the D.C. Superior Court, pursuant to D.C. Official Code § 11-941, authorizing the entry or inspection for the purpose of determining compliance with the Act or with this Chapter.

303.3 The Director is authorized to utilize subpoena power pursuant to D.C. Official Code §§ 1-301.21 and 7-2036 to supervise, inspect, and investigate Child Development Facilities in order to determine compliance with the provisions of the Act or of this Chapter.

303.4 Authorized District of Columbia officials shall have access to all records of the Facility, including but not limited to: child, staff and administrative records; financial, tax and inspection records; policies and procedures; and any other information or documentation necessary to determine the Facility's compliance with applicable federal and District of Columbia laws and regulations.

304 CERTIFICATE OF OCCUPANCY AND HOME OCCUPATION PERMIT

304.1 Before applying for a license, each Child Development Facility shall secure a Certificate of Occupancy or Home Occupation Permit for the premises, or equivalent proof that the premises comply with all applicable federal and District of Columbia fire, safety, building, and zoning regulations and codes. The Certificate, Permit, or other proof shall include certification that the premises are fit and suitable for the operation of a Child Development Facility.

304.2 A new or revised Certificate of Occupancy, Home Occupation permit, or equivalent proof as noted in subsection 304.1 shall be required:

(a) Upon initial application for a license;

(b) At the time of any major modification or alteration of any existing premises or structure used by the Facility, but prior to the continued use of the modified or altered portions of the premises or structure for child development purposes; and

(c) Prior to the use of any portion of the premises or structure that was not previously inspected and approved for use as a Child Development Facility.

304.3 In the case of a Facility providing out-of-school-time care only, located in a District of Columbia government building exempt from Certificate of Occupancy requirements, the requirements of this section may be met by providing, in lieu of the Certificate of Occupancy, a Building Use Agreement executed by the Facility and the District of Columbia government agency with responsibility for that building, including a certification from said government agency that it assumes responsibility for the maintenance and safety of the premises in which the Facility is located.

305 APPROVAL FOR FIRE SAFETY

305.1 Each Child Development Center shall undergo a fire safety inspection and shall obtain certification that the premises conform to all applicable fire safety and related codes, from the Department of Fire and Emergency Medical Services or from the Department of Consumer and Regulatory Affairs, under the following circumstances:

(a) Upon initial application for a license;

(b) Upon each annual application for license renewal;

(c) At the time of any major modification or alteration of the existing premises or structure used by the Facility, but prior to the continued use of modified or altered portions of the premises or structure for child development purposes; and

(d) Prior to the use of any portion of the premises or structure not previously inspected and certified as conforming to the applicable fire safety and related codes for use as a Child Development Facility.

305.2 Each Child Development Home shall undergo a fire safety inspection and shall obtain certification that the premises conform to all applicable fire safety and related codes, from the Department of Fire and Emergency Medical Services or from the Department of Consumer and Regulatory Affairs, under the following circumstances:

(a) Upon initial application for a license;

(b) At the time of any major modification or alteration of the existing premises or structure used by the Facility, but prior to the continued use of modified or altered portions of the premises or structure for child development purposes; and

(c) Prior to the use of any portion of the premises or structure not previously inspected and certified as conforming to the applicable fire safety and related codes for use as a Child Development Facility.

306 APPLICATION FOR AN INITIAL LICENSE

306.1 Each applicant, or person(s) designated by the applicant to represent the proposed Facility, shall attend an orientation program sponsored by the Director.

306.2 Each application, accompanied by the appropriate fee(s), if any, shall be submitted on a form approved by the Director at least ninety (90) days prior to the date of proposed initiation of operations.

306.3 Each application shall contain the following:

(a) Certificate of Occupancy, Home Occupation Permit, or other proof pursuant to subsection 304.1;

(b) The name(s) and address(es) of the person or persons making the application; or, in the case of a corporation or association, the tax identification number of the entity and the names and addresses of at least three primary officers, directors, or partners;

(c) The name and address of the individual designated by the applicant to be the Caregiver or Center Director of the Facility;

(d) The qualifications of the individual designated by the applicant to be the Caregiver or Center Director of the Facility, as described in sections 332 and 352 of this Chapter;

(e) Proof that the applicant, or in the case of an entity, all principal owners or operators thereof, and that the person designated by the applicant to be the Caregiver or Center Director of the Facility, have undergone the required background checks and obtained the required clearances pursuant to section 328 of this Chapter;

(f) The address of the premises to be used as the licensed Facility, plus a description of all structures and facilities making up the premises;

(g) The name by which the Facility will be known;

(h) The name(s) and address(es) of the owner(s) of the building(s) that will house the Facility;

(i) The proposed capacity, hours of operation, ages of children served and services to be provided;

(j) A program statement, which shall include the following:

(1) A description of the educational and developmental philosophy to be followed at the Facility;

(2) A description of the curriculum to be implemented;

(3) A description of the policy regarding discipline, including the policy regarding withdrawal and termination of children for disciplinary reasons;

(4) A typical daily schedule of activities for each age group of children to be served;

(5) A statement describing the provision of meals and snacks;

(6) A general contingency plan for emergencies; and

(7) Proof of compliance with the Clean Hands Before Receiving a License or Permit Act of 1996, effective May 11, 1996 (D.C. Law 11-118, D.C. Official Code §§ 47-2861 *et seq*.);

(k) Certification that the Facility is free of lead-based paint hazards;

(l) Proof of liability insurance, with additional coverage if the Facility provides transportation services to the enrolled children; and

(m) Such other reasonable information that the Director may require in order to determine whether the applicant is qualified to operate a Child Development Facility that conforms to the provisions of the Act and of this Chapter.

307 FEES

307.1 License fees for Child Development Facilities shall vary in accordance with the Facility's license capacity.

307.2 Each applicant for a license to operate a Child Development Center shall pay an initial application/pre-licensure inspection fee, in the amount of $75.00.

307.3 The initial license fee, annual renewal license fee, and license replacement fee for each Child Development Facility shall be as follows:

(a)	Child Development Homes	$ 75.00
(b)	Child Development Centers, 1 - 50 Children	$200.00
(c)	Child Development Centers, 51 - 100 Children	$300.00
(d)	Child Development Centers, 101 - 175 Children	$400.00
(e)	Child Development Centers, Over 175 Children	$500.00
(f)	Replacement of License (all facilities)	$ 25.00

307.4 Facilities operated by the District of Columbia Government shall not be required to pay a fee.

307.5 The Director may make reasonable adjustment to license fees, as appropriate; a new fee schedule shall be published by the Director at least thirty (30) days before any new fee is implemented.

307.6 A fee shall be paid whenever there is a required amendment to a license, including a change of ownership or a change of address.

307.7 A fee payment submitted with an application shall not be transferred to any other application.

307.8 Fee payment is non-refundable.

307.9 A late fee, in the amount of $25.00 for Child Development Homes and $50.00 for Child Development Centers, shall be imposed if a license renewal application is not timely filed as specified in subsection 308.1 of this Chapter.

308 LICENSE RENEWAL

308.1 Application for renewal of a Child Development Facility license shall be submitted on a form provided by the Director, with the appropriate documentation and fee, no later than ninety (90) days prior to the expiration date of the existing license.

308.2 When a licensee makes timely and complete application for license renewal, the existing license shall remain in effect until the Director makes a determination whether the license will be renewed.

308.3 The Director shall issue a license renewal for a period not to exceed one (1) year, when a Facility is in substantial compliance with the Act and with this Chapter.

308.4 The Director shall issue the renewal license no later than ten (10) business days after the Director determines that substantial compliance has been achieved.

309 INSPECTIONS AND LICENSE ISSUANCE

309.1 Upon receipt of a complete application for an initial license or a license renewal, and prior to the issuance of the license, the Director may conduct an on-site inspection to determine compliance with the Act and with this Chapter.

309.2 In the case of an initial license or a license renewal, if the Director determines that a Facility does not comply with the Act or with this Chapter, the Director shall provide a written statement of deficiencies to the applicant no later than five (5) business days from the conclusion of the inspection or other determination.

309.3 In the case of an initial license, an applicant Facility shall have no less than forty-five (45) days after receipt of the statement of deficiencies within which to achieve compliance before adverse action may be taken on the application.

309.4 In the case of an initial license wherein the applicant has been given a statement of deficiencies, the Director shall conduct a follow-up inspection to determine compliance within ten (10) business days following the forty-five (45) day correction period, or within ten (10) business days after earlier notification from the Facility that compliance has been achieved.

309.5 In the case of a license renewal, the Director shall include in the statement of deficiencies a recommended plan of correction, including the designation of a time within which each cited deficiency must be corrected.

309.6 In the case of a license renewal wherein the Facility has been given a statement of deficiencies, the Director may conduct one or more additional on-site inspections, as needed, to verify compliance before a renewal license is issued. With respect to each cited deficiency, the on-site inspection shall take place after the completion of the recommended compliance period contained in the statement of deficiencies, as provided by this section.

310 LICENSE CAPACITY

310.1 The Director shall determine limitations on the license capacity using the following criteria:

(a) Occupancy limits established by the Department of Consumer and Regulatory Affairs and/or by the Department of Fire and Emergency Medical Services;

(b) Program space requirements, as provided in sections 340, 341, 342, 350, 353 and 355 of this Chapter;

(c) Lavatory requirements, as provided in section 361 of this Chapter; and

(d) Maximum adult/child ratios and group size requirements, as established in section 343 of this Chapter.

310.2 Any Facility desiring a change in its license capacity shall submit a written request to the Director, accompanied by written documentation verifying that the Facility can maintain compliance with the requirements of this Chapter if the change is granted.

311 VARIANCES

311.1 The Director may grant a variance from compliance with one or more physical or structural requirements of this Chapter if the Director determines that compliance with the requirement(s) would result in exceptional or undue hardship.

311.2 A Facility may apply for a variance by submitting a written request to the Director setting forth the following:

(a) The specific requirement(s) from which the Facility seeks relief;

(b) The exceptional or undue hardship that would result from compliance with the requirement(s);

(c) The extent to which the Facility seeks to be exempt from the requirement(s); and

(d) The Facility's proffer as to why granting the variance would not jeopardize the health, safety or welfare of any person and would be consistent with the intent of the Act and of this Chapter.

311.3 The Director shall respond to a request for a variance, in writing, within thirty (30) days of receipt of the request.

311.4 If a variance is granted, it shall be set forth in writing by the Director.

311.5 Any variance obtained by a Facility shall be posted in the Facility in the vicinity of the posted license.

311.6 Noncompliance with the terms of a variance may invalidate the variance and may be the basis of additional enforcement action.

312 COMPLAINT INVESTIGATIONS

312.1 Upon receipt of a complaint alleging violation(s) of the provisions of the Act or this Chapter, the Director may conduct an on-site investigation, announced or unannounced, to determine the validity of the complaint.

312.2 The Director shall investigate an allegation of activity that is life-threatening or imminently dangerous within (24) twenty-four hours of receipt of the complaint.

312.3 The Director shall investigate complaints that do not allege life-threatening or imminently dangerous activity no later than thirty (30) days after receipt of the complaint.

312.4 Upon completion of a complaint investigation, the Director shall provide a written statement to the Facility no later than ten (10) business days after the conclusion of the investigation. The statement shall include the specific provision(s) of law or regulation alleged in the complaint to have been violated, as well as whether the Facility was found to be in compliance. If the Facility is found not to be in compliance with one or more provisions, the Director shall provide the Facility with a written statement of deficiencies.

312.5 If a Facility is provided with a statement of deficiencies as a result of a complaint investigation, the Director shall include in the statement of deficiencies a recommended plan of correction, including the designation of a time within which each cited deficiency must be corrected.

312.6 If a Facility is provided with a statement of deficiencies as a result of a complaint investigation, the Director may conduct one or more additional on-site inspections, as needed, to verify compliance. With respect to each cited deficiency, the on-site inspection shall take place after the completion of the recommended compliance period contained in the statement of deficiencies.

313 REVOCATION, DENIAL AND SUSPENSION

313.1 The Director may deny, refuse to renew, revoke, or suspend a license on the basis of any of the following:

(a) Failure to comply with the Act or with this Chapter;

(b) Providing false or misleading information in an application for an initial license or for a license renewal;

(c) Failure to allow entry to authorized officials to conduct an inspection or investigation, or to otherwise determine whether the applicant or licensee is in substantial compliance with the Act or with this Chapter;

(d) Employing any method of discipline prohibited by this Chapter;

(e) A determination that an applicant or licensee has been convicted of, or has admitted to committing, either in the District of Columbia or in another jurisdiction, any criminal offense which constitutes a bar to employment in an agency or entity that provides direct services to children and youth, or as a result of which a duly authorized District of Columbia Government official has determined that the applicant or licensee poses a danger to children or youth, as provided in the Child and Youth, Safety and Health Omnibus Amendment Act of 2004, effective April 13, 2005 (D.C. Law 15-353, D.C. Official Code §§ 4-1501.01 *et seq*.) or in subsequent amendments thereto, or in rules promulgated pursuant to that law, or as provided in any superseding District of Columbia or federal law, which offenses may include the following at the felony level unless otherwise indicated:

(1) Murder, attempted murder, manslaughter, or arson;

(2) Assault, assault with a dangerous weapon, mayhem, malicious disfigurement, or threats to do bodily harm;

(3) Burglary;

(4) Robbery;

(5) Kidnapping;

(6) Illegal use or possession of a firearm;

(7) Sexual offenses at the felony or misdemeanor level, including indecent exposure; promoting, procuring, compelling, soliciting, or engaging in prostitution; corrupting minors (sexual relations with children); molesting; voyeurism; committing sex acts in public; incest; rape; sexual assault; sexual battery; or sexual abuse; but excluding sodomy between consenting adults;

(8) Child abuse or cruelty to children; or

(9) Unlawful distribution or possession of, or possession with intent to distribute, a controlled substance;

(f) A determination that any employee or volunteer who is reasonably expected to come into contact with one or more children has been convicted of, or has admitted to committing, any criminal offense which constitutes a bar to employment or as a result of which the person has been determined to pose a danger, as more fully described above at subsection 313.1(e);

(g) In the case of a Child Development Home, a determination that any person living in the home that houses the Facility has been convicted of, or has admitted to committing, any criminal offense which constitutes a bar to employment or as a result of which the person has been determined to pose a danger, as more fully described above at subsection 313.1(e); or

(h) A determination that an applicant or licensee, or any employee or volunteer who is reasonably expected to come into contact with one or more children, has admitted to or has been found to have abused or neglected a child in the District of Columbia or in any other jurisdiction.

313.2 A license suspension, other than a summary suspension, may be for a period not to exceed sixty (60) calendar days.

313.3 At or before the end of the suspension period, the Director shall either reinstate the license or initiate procedures for the revocation of the license.

313.4 Procedures for revocations, suspensions and denials of licenses shall be in accordance with sections 314, 317 and 318 of this Chapter.

314 SUMMARY SUSPENSION

314.1 The Director may summarily and immediately suspend a license, for a period of not more than forty-five (45) calendar days, upon finding that the health, safety, or welfare of children, adults, or of the general public is in immediate danger.

314.2 A summary suspension of a license is effective upon the delivery to the Facility of a Notice of Summary Suspension, which Notice shall be hand-delivered to the licensee, or to an adult employee or family member of the licensee, at the licensed premises.

314.3 The Notice of Summary suspension shall state that the Facility may request an expedited hearing within five (5) business days of receipt of the Notice. The notice shall also comply with section 317 of this Chapter.

314.4 When a Facility's license is summarily suspended, the Director shall immediately repossess the license, and the Facility shall immediately cease providing child care.

314.5 When a Facility's license is summarily suspended, the Facility shall be responsible for providing parents with written notification of the suspension and for informing them of the need to make alternative child care arrangements. The Facility shall also provide the Director with a copy of the written notification.

314.6 Upon a timely request for an expedited hearing pursuant to this section, the Office of Administrative Hearings shall conduct the hearing within five (5) business days of the request, and the Office of Administrative Hearings shall issue a decision within five (5) business days after the hearing record is closed.

314.7 Upon completion of a hearing conducted pursuant to this section and closure of the hearing record, the Office of Administrative Hearings shall determine either that the summary suspension was warranted, in which case the suspension shall continue for a period not to exceed forty-five (45) days from the date of the decision, or that the summary suspension was unwarranted, in which case the suspension shall immediately cease and the license shall be immediately returned to the Facility.

314.8 At or before the end of the suspension period, the Director shall either reinstate the license or initiate procedures for the revocation of the license.

314.9 A license that has been summarily suspended may be reinstated before the end of the suspension period if the Director determines that the Facility is in substantial compliance with the Act and with this Chapter.

315 PROVISIONAL AND RESTRICTED LICENSES

315.1 As an alternative to denial, suspension or revocation of a license, when a Facility has one or more deficiencies that jeopardize the health, safety or welfare of children, staff or the general public, the Director may:

(a) Issue a provisional license if the Facility is taking appropriate ameliorative action in accordance with a timetable established by the Director; or

(b) Issue a restricted license that prohibits the Facility from accepting new children or from delivering certain specified services that it would otherwise be authorized to deliver.

315.2 A provisional license may be issued to a new Facility in order to afford the Director sufficient time and evidence to evaluate whether a new Facility is capable of complying with the provisions of the Act, this Chapter, or any other applicable federal or District of Columbia law.

315.3 A provisional license may be granted for a period not to exceed ninety (90) days, and may be renewed no more than once.

315.4 The issuance of provisional and restricted licenses may be:

(a) Summary actions implemented in accordance with procedures set out in section 314 of this Chapter; or

(b) Non-summary enforcement actions implemented in accordance with procedures set out in sections 317 and 318 of this Chapter.

316 CEASE AND DESIST

316.1 If the Director determines that a Facility, an entity, or a person has violated any provision of the Act or of this Chapter, and that the violation presents an imminent danger to children, adults, or to the general public, the Director may issue a written Order directing the Facility, entity or person to cease and desist from the violation.

316.2 The written Order to cease and desist shall be delivered in accordance with the procedures set forth in section 317 of this Chapter. The Order shall state that the Facility, entity or person may request an expedited hearing within five (5) business days of receipt of the Order. If no request for a hearing is made, the Order shall be final.

316.3 Upon a timely request for an expedited hearing pursuant to this section, the Office of Administrative Hearings shall conduct the hearing within five (5) business days of the request, and the Office of Administrative Hearings shall issue a decision within five (5) business days after the hearing record is closed.

316.4 Upon completion of a hearing conducted pursuant to this section and closure of the hearing record, the Office of Administrative Hearings shall determine whether the Order to cease and desist was warranted, and shall issue an Order to that effect.

317 SERVICE OF NOTICE FOR ENFORCEMENT ACTIONS

317.1 A Notice shall be provided by the Director to the Facility or applicant before the Director may take any of the following enforcement actions:

(a) Denial of issuance of a license;

(b) Denial of renewal of a license;

(c) Suspension of a license;

(d) Revocation of a license; or

(e) Issuance of a provisional or restricted license.

317.2 A Notice required by this section may be served personally, or by certified mail, return receipt requested, directed to the applicant or Facility at the last known address as shown in the Department's records, or at the address of the Facility premises.

317.3 A copy of the Notice shall be delivered to the Office of Administrative Hearings within one day of service of the Notice.

317.4 A Notice served personally is deemed served when it is delivered to the applicant or licensee, or to an adult employee or family member of the applicant or licensee, at the licensed premises or at the last known address.

317.5 A Notice served by certified mail is deemed served on the date written or stamped upon the return receipt, indicating delivery of the Notice to the applicant or licensee or refusal of the applicant or licensee to accept delivery of the Notice.

317.6 In the event that the applicant or licensee is not found at the address of the Facility nor at the last known address as shown in the records of the Department, and no forwarding address is available, the Notice shall be deemed served on the date that the return receipt bearing such notification is returned to the Director.

317.7 A Notice of a proposed enforcement action shall include the following:

(a) The nature of the proposed enforcement action;

(b) The effective date of the proposed action;

(c) A description of, and citation for, each violation alleged;

(d) In the case of a license suspension, the time period of the proposed suspension;

(e) A statement informing the applicant or Facility that it may make a request for a hearing by submitting a written request to the Office of Administrative Hearings within ten (10) days of receipt of the Notice, or, in a matter in which a different time period is prescribed by law, within the applicable time period;

(f) A statement informing the applicant or Facility that the proposed action may become final without a hearing if the applicant or Facility fails to request a hearing within the time and in the manner specified; and

(g) In the case of a license suspension, revocation, or conversion, a statement informing the Facility that it will be required to surrender its license upon final action to suspend, revoke, or convert the license to provisional or restricted status.

318 HEARINGS

318.1 Hearings shall be conducted by the Office of Administrative Hearings in accordance with this Chapter and pursuant to rules and procedures established by that Office.

318.2 Parties may participate in settlement negotiations prior to a hearing, and may enter into a negotiated settlement agreement or consent decree in lieu of a hearing.

318.3 In each matter in which a hearing is requested, the Office of Administrative Hearings shall maintain an official record, and shall render its final decision in writing to all parties, accompanied by findings of fact and conclusions of law.

318.4 Each hearing shall be conducted in accordance with the requirements of section 10 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1208; D.C. Official Code § 2-509), unless otherwise provided in this Chapter or in rules established by the Office of Administrative Hearings.

319 JUDICIAL REVIEW

319.1 Any person aggrieved by a final decision of the Director or of the Office of Administrative Hearings may appeal the decision to the District of Columbia Court of Appeals pursuant to section 11 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1209; D.C. Official Code § 2-510).

320 CIVIL FINES, CRIMINAL PROSECUTION AND INJUNCTIONS

320.1 Civil fines and penalties may be imposed for any violation of the Act or of this Chapter, pursuant to the District of Columbia Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42, D.C. Official Code §§ 2-1801.01 *et seq.*) (hereinafter "Civil Infractions Act"). Adjudication of all charged infractions shall be conducted pursuant to Titles I through III of the Civil Infractions Act. Hearings shall be conducted in accordance with section 318 of this Chapter.

320.2 Any violation of the Act may result in criminal prosecution, whereupon the violator shall, upon conviction, be subject to imprisonment not to exceed six (6) months, or a fine not to exceed $300.00, or both. Each unlawful act shall constitute a separate violation of this Chapter. Prosecutions shall be brought by the Attorney General for the District of Columbia in the Superior Court of the District of Columbia.

320.3 Any person who has been previously convicted of an offense in violation of the Act shall, upon a subsequent conviction for the same offense, be subject to imprisonment not to exceed one (1) year, or a fine not to exceed $5,000.00, or both.

320.4 In any prosecution conducted for violation of the Act, a Child Development Facility claiming an exemption from a licensing requirement shall have the burden of proving entitlement to the exemption.

320.5 The Attorney General may bring a civil action in the Superior Court of the District of Columbia to enjoin any violation of the Act.

321 NOTICE REQUIREMENTS FOR CHANGES IN OPERATION

321.1 Each Facility shall inform the Director, in writing, of any of the following planned changes in operation no less than ten (10) days before implementation of the change(s):

(a) Change of ownership;

(b) Change in location, name and/or telephone number of the Facility;

(c) Renovation or alteration of the premises that substantially changes the indoor or outdoor space of the Facility;

(d) In the case of a Child Development Home, the inclusion of an additional member in the household, including the new member's criminal history, if any;

(e) In the case of a Child Development Home, a change in primary Caregiver(s);

(f) In the case of a Child Development Center, a change in Center Director; or

(g) A significant change in the operation of the program, including, but not limited to, hours of operation, services provided, and capacity load.

321.2 If a Facility undergoes any of the changes in operation listed in subsection 321.1 without the change being planned in advance, the Facility shall notify the Director immediately.

321.3 Upon notification of the proposed change(s), the Director may inspect the Facility to evaluate the impact of the change(s) on the provision of child development services.

321.4 The Director shall issue an amended license, consistent with the approved change(s), as required by and subject to the provisions of this Chapter.

322 REPORTING UNUSUAL INCIDENTS

322.1 Each Facility shall immediately report, to the Director, to the Department of Human Services for those providers that participate in the Child Care Subsidy Program, and to the parent(s)/guardian(s) of each affected child, any unusual incident that may adversely affect the health, safety or well-being of any child or children in the Facility. Unusual incidents include, but are not limited to, the following:

(a) Death of a person occurring within the Facility;

(b) Injury to, or illness of, any child that occurs during the hours the child is enrolled in care and that requires hospitalization or emergency medical treatment;

(c) Damage to the Facility, or to any Facility vehicle or equipment, that interferes with the capability of the Facility to protect the health, safety and well-being of the children and adults in the Facility;

(d) The presence of any individual in the Facility who has, or is suspected of having, a communicable disease that must be reported to the District of Columbia Department of Health in accordance with Title 22 of the District of Columbia Municipal Regulations;

(e) The elopement of an enrolled child or any circumstances under which a child is deemed missing or unaccounted for;

(f) A traffic accident involving a vehicle owned, maintained, or contracted for by the Facility and in which children are being transported at the time of the accident; and

(g) Any other occurrence at the Facility that involves a response by police, fire, ambulance, or any other emergency service.

322.2 The Facility shall also submit to the Director, on a form approved by him or her, and to the Department of Human Services for those providers that participate in the Child Care Subsidy Program, a written report of the unusual incident, within twenty-four (24) hours of the incident.

322.3 In the case of a traffic accident or an incident involving actual or suspected criminal activity, the Facility shall also file a report with the appropriate law enforcement authorities.

322.4 Any Facility staff member who knows or has reasonable cause to suspect that an enrolled child is, has been, or is in immediate danger of being an abused or neglected child shall, as required by the District of Columbia Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22, D.C. Official Code §§ 4-1321.01 *et seq*.), make or cause to be made an immediate oral report to:

(a) The Child Protective Services Division of the Child and Family Services Agency, via the CFSA twenty-four (24) hour Child Abuse and Neglect Hotline (202-671-SAFE); or

(b) The Metropolitan Police Department.

322.5 The Facility staff member making an oral report pursuant to subsection 322.4 shall also make a written report if:

(a) A written report is requested by the Child and Family Services Agency or the Metropolitan Police Department;

(b) The case is one of abuse involving drug-related activity; or

(c) As otherwise required by law.

322.6 In the reports required by subsections 322.4 and 322.5, the staff member shall include:

(a) The name, age, sex and address of the child who is the subject of the report;

(b) That the child who is the subject of the report is enrolled at the Facility;

(c) The name, address and telephone number of the Facility;

(d) To the extent known, the name, age, and sex of each sibling or other child living in the same household;

(e) To the extent known, the name, age, and sex of each parent, guardian, or other caretaker of the child;

(f) The nature and extent of the abuse or neglect, and of any previous abuse or neglect, as known to the reporting staff member;

(g) Any other information which may be helpful in establishing the cause of the abuse or neglect and/or in establishing the identity of the person(s) responsible for it;

(h) The name, title or occupation, and contact information of the staff member making the report;

(i) Any actions taken by the staff member or the facility concerning the child in response to the situation; and

(j) Any other information required by law.

322.7 Each Facility shall:

(a) Provide training to all staff regarding the Facility's policies and procedures relating to child abuse, neglect, and risk to a child's health or safety, including how to report suspected abuse, neglect, or risk to a child's health or safety;

(b) Require staff to immediately report, and to cooperate with officials investigating, alleged or actual child abuse or neglect, or alleged or actual risk to an enrolled child's health or safety;

(c) If any Facility staff member is identified as allegedly responsible for the alleged or actual child abuse or neglect, or alleged or actual risk to an enrolled child's health or safety, place that staff member on administrative leave or reassignment to duties involving no contact with children until the investigation conducted by authorized government officials is complete; and

(d) Ensure that staff may report incidents involving alleged or actual child abuse or neglect, or alleged or actual risk to an enrolled child's health or safety, without threat of discharge or other retaliation.

323 ADMINISTRATIVE RECORDS ON OPERATIONS

323.1 Each Facility shall maintain all required licenses and permits, and shall post in a conspicuous place the Certificate of Occupancy or Home Occupation Permit, all current fire, health and safety inspection approvals, and any variances received.

323.2 Each Facility shall maintain on the facility premises at all times, and shall make immediately available for review by any person upon request, the report(s) of each inspection of the Facility by the Director occurring within the preceding one (1) year period, including the statement(s) of deficiencies, if any, subject to the limitations contained in subsection 324.8 of this Chapter. If a period of more than one (1) year has passed since the most recent inspection of the Facility, the Facility shall maintain and make available the report of the most recent inspection.

323.3 Records of complaint investigations and fire and emergency evacuation drills shall be immediately accessible and available for inspection by government officials, and shall be made available for inspection by the public subject to the limitations contained in subsection 324.8 of this Chapter.

323.4 The Facility shall maintain a log of unusual incidents reported in accordance with section 322 of this Chapter.

323.5 The Facility shall maintain records documenting any adverse action the Facility takes against an employee, volunteer or household member related to any substantiated crimes against children. The adverse action shall be reported as an unusual incident in accordance with section 322 of this Chapter.

323.6 The Facility shall maintain service and repair records, in a single location on the licensed premises, for all motor vehicles that are owned or leased for purposes of transporting enrolled children. The Facility shall maintain each record for at least twelve (12) months after the date of the inspection or repair.

324 ADMINISTRATIVE RECORDS ON CHILDREN

324.1 The Child Development Facility shall maintain a record for each enrolled child, and shall retain the record for three (3) years following the termination of that child's enrollment. All records required by this section shall be made available for inspection.

324.2 The Facility shall maintain current records and information on children, including:

(a) Roster of enrolled children by age group;

(b) Daily attendance records by names of children, including first name, last name and middle initial of each child;

(c) Daily menu plan for feeding the children indicating the foods actually served on a daily basis;

(d) Daily schedule of activities; and

(e) Health records on enrolled children pursuant to section 325 and as otherwise provided in this Chapter.

324.3 Each Facility shall maintain a register that shall include the following information for each child currently enrolled:

(a) The child's full name;

(b) The child's gender;

(c) Date of birth;

(d) Date of admission;

(e) Home address and telephone number;

(f) Full names of parents or guardians;

(g) Business addresses and telephone numbers of parents or guardians;

(h) Designation of individuals authorized to receive the child at the end of each session;

(i) Name and telephone number of individual to be contacted in emergencies when the parents or guardians are not available;

(j) Date and reasons for the child's withdrawal;

(k) Language(s) spoken in the child's home;

(l) Health information on each child as required by section 325 of this Chapter;

(m) Written authorization(s) for the administration of medication as required by section 377 of this Chapter, if applicable;

(n) For children in out-of-school-time care:

(1) The name of the school the child attends;

(2) The name and number of a contact person from that school; and

(3) If the child arrives at and leaves the Facility alone, the days and times at which the child should arrive and leave the Facility and the mode(s) of transportation that the child uses to travel to and from the Facility; and

(o) A record of the child's developmental progress.

324.4 The Facility shall have a current Emergency Medical Treatment Authorization form on file for each child, granting permission to the Facility to obtain medical treatment in case of an emergency that occurs while the child is in the care of the Facility. The form shall be approved by the Director and shall include:

(a) Signatures of the parent(s) or guardian(s);

(b) Information on the child's/family's health insurance coverage; and

(c) A list of the child's known illnesses and allergies; and

(d) In the event that any of this information changes, updated information and the date the updated information was added.

324.5 The Facility shall maintain on file a written, signed and dated statement from each child's parent(s) or guardian(s) authorizing the Facility to take the child on regularly scheduled trips from the Facility. The authorization shall include the child's name, and shall specify the mode of transportation, the frequency, and the destination of each such trip.

324.6 If the child is to be taken on a field trip that is not recorded as a routine trip, the Facility shall obtain a written authorization that includes the information required in subsection 324.5 in addition to the estimated time of departure and arrival.

324.7 Written permission shall be considered valid for all regularly scheduled trips as noted in the statement submitted pursuant to subsection 324.5 until withdrawn by the child's parent(s) or guardian(s).

324.8 The Facility shall not disclose information concerning an individual child or the child's parent(s) or guardian(s) to persons other than the Facility staff or government officials acting in the course of their duties, unless the parent(s) or guardian(s) grant written permission for the disclosure, or unless disclosure is necessary in an emergency situation.

324.9 The Facility shall inform the parent(s) or guardian(s) of all enrolled children, in writing, of the Facility's policy regarding disclosure of information.

325 CHILDREN'S HEALTH RECORDS

325.1 Each child attending a Child Development Facility shall, upon enrollment and prior to admission, submit to the Facility, on forms approved by the Mayor, complete documentation of a comprehensive physical health examination, including age-appropriate screenings and up-to-date immunizations, and, for each child three (3) years of age or older, complete documentation of an oral health examination, each examination having been performed by a licensed health care professional within one (1) year prior to the date of admission.

325.2 Each child attending a Child Development Facility shall, at least annually, submit to the Facility, on forms approved by the Mayor, complete documentation of a comprehensive physical health examination, including age-appropriate screenings and up-to-date immunizations, and, for each child three (3) years of age or older, complete documentation of an oral health examination, each examination having been performed by a licensed health care professional within the preceding one (1) year period.

325.3 The Facility shall maintain, for each enrolled child, the initial and annual health record documentation required under subsections 325.1 and 325.2, including:

(a) The full name, gender, date of birth, and home address of the child;

(b) The dates of the physical and oral health examinations;

(c) The child's height and weight at the time of the physical health examination;

(d) Each licensed health care practitioner's clinical findings, concerns, and recommendations;

(e) The child's significant health history, including allergies, health conditions, communicable illness, and restrictions;

(f) Specific immunizations received by month, day and year;

(g) Results of tuberculosis exposure risk assessment, and of testing where indicated;

(h) Results of lead exposure risk assessment, and of testing in accordance with subsections 325.4 and 325.5;

(i) Identification of long-term medications and special health care requirements or accommodations; and

(j) The name, address, phone number and signature of the examining licensed health care practitioner.

325.4 In addition to the information otherwise required under this section, each child under six (6) years of age attending a Child Development Facility shall submit, and the Facility shall maintain, documentation of the following with respect to blood tests for lead poisoning:

(a) Proof that the child was tested between the ages of six (6) months and nine (9) months, and again between the ages of twenty-two (22) months and twenty-six (26) months; or

(b) Proof that, if the child was not tested before the age of twenty-six (26) months, the child was or will be tested two (2) times before the age of six (6) years, having been or intending to be tested at intervals at least twelve (12) months apart, or according to a schedule determined by the child's licensed health care practitioner; or

(c) Proof that lead testing for the child complies with any applicable Federal or District of Columbia law or rule that requires lead testing for children under the age of six (6) years.

325.5 Blood tests for lead poisoning shall be conducted, and results shall be disseminated and maintained, in accordance with the Childhood Lead Poisoning Screening and Reporting Act of 2002, effective October 1, 2002 (D.C. Law 14-190, D.C. Official Code §§ 7-1031 *et seq.*)

326 EXCLUDING AND READMITTING CHILDREN WHO ARE ILL

326.1 A child who exhibits one or more symptoms of illness identified in subsection 326.6 shall not attend the Facility.

326.2 When the Facility staff observes one or more symptoms of illness identified in subsection 326.6, the child's parent(s) or guardian(s) shall be notified immediately. The Facility shall require that the parent(s) or guardian(s) remove the child from the Facility.

326.3 The Facility shall isolate a child who becomes ill or is suspected of being ill. The child shall remain within sight and hearing of a staff member.

326.4 Facility staff shall carefully observe a child in isolation for the presence of, or change in, any symptoms identified in subsection 326.6.

326.5 Facility staff shall ensure that a child who is ill or suspected of being ill does not share any personal hygiene or grooming items.

326.6 Symptoms of illness requiring exclusion from the Facility include, but are not limited to, the following:

(a) Diarrhea, *i.e.*, runny, watery or bloody stools;

(b) Vomiting two (2) or more times in a twenty-four (24) hour period;

(c) Body rash with fever;

(d) Sore throat with fever or swollen glands;

(e) Eye drainage with thick mucus or pus draining from the eye;

(f) Pink eye, *i.e.*, colored drainage, eye pain and/or redness of the eye;

(g) Yellowish skin or eyes;

(h) Fever accompanied by rash, vomiting, diarrhea, earache, irritability or confusion;

(i) Continuous irritable crying that requires more attention than the Facility can provide without compromising the health and safety of other children; or

(j) Any other symptom indicative of a reportable communicable disease, as such is defined in Chapter 2 of Title 22 of the District of Columbia Municipal Regulations or in any superseding document.

326.7 The Facility shall observe each child for the presence of symptoms that may indicate a medical problem, which problem may require exclusion from the Facility, isolation from other children, and/or consultation with the child's parent(s), guardian(s) or licensed health care practitioner(s). The following are examples of conditions that may indicate the existence of a medical problem:

(a) Fever;

(b) Lethargy or inability to walk;

(c) Respiratory problems, including: increased respiratory rate; retractions in the chest; excessive nasal flaring; audible persistent wheezing; persistent coughing, either productive or nonproductive; severe coughing causing redness or blueness in the face; or difficulty in breathing;

(d) Abdominal and urinary system problems including: intestinal parasites, dark urine, white spots in the stool, increased urgency or frequency of urination, or no urination for an entire day;

(e) Cardiac problems, including: choking, change in color of the skin, chest pain, or persistent sweating;

(f) Ear problems, including discharge from the ear and/or ear pain;

(g) Throat and mouth problems, including: sores on the lips or in the mouth, white patches in the mouth, throat pain, or a dental problem that needs immediate attention; and

(h) Injuries, including: persistent bleeding, oozing wounds, apparent fracture, complaint of persistent bone pain or stiffness, or difficulty with the movement of any extremity.

326.8 A child who exhibits one or more symptoms of illness identified in subsection 326.6, and who has been treated for said symptom(s) by a licensed health care practitioner, may be readmitted to the Facility only with written permission, and written instructions for continuing care if needed, from that licensed health care practitioner.

326.9 If a child exhibits mild symptoms of illness and/or discomfort, the Center Director or his/her designee, or the Caregiver, in consultation with the child's parent(s) or guardian(s), shall decide whether the child should be immediately discharged or discharged at the end of the day.

327 ADMINISTRATIVE RECORDS ON STAFF OF ALL FACILITIES AND ON PERSONS RESIDING IN HOME FACILITIES

327.1 Each Facility shall maintain, on the Facility premises, the following information for each employee:

(a) The full name, gender, social security number, date of birth and home address;

(b) Position title and job description;

(c) Documentation and results of criminal and background history checks in accordance with this Chapter and with all other applicable federal and District of Columbia laws and rules;

(d) A copy of the employee's resume, required degrees, certificates, transcripts, and letters of reference;

(e) Verification of the employee's orientation to his/her duties and responsibilities and to the Facility's policies and procedures;

(f) An ongoing record of continuing education;

(g) First Aid and CPR Certification for children, as required;

(h) Date of appointment to, or withdrawal from, any position in the Facility;

(i) Reason for withdrawal from a position; and

(j) A copy of the employee's signature.

327.2 The Facility shall maintain a health record for each staff member, including paid employees and volunteers, which shall include the following:

(a) Results of a pre-employment physical examination of the staff member by a licensed health care practitioner, not more than twelve (12) months prior to the start of employment or volunteer work;

(b) Results of an annual physical examination of the staff member by a licensed health care practitioner;

(c) Written and signed documentation from the examining licensed health care practitioner that the staff member, at the time of his or her examination, was free from tuberculosis and apparent communicable disease;

(d) Written and signed documentation from the examining licensed health care practitioner that the staff member, if noted to have an identified medical problem, is capable of caring for children in a licensed Child Development Facility;

(e) Health insurance information, if applicable; and

(f) The names and phone numbers of the staff member's primary licensed health care practitioner and of an emergency contact person.

327.3 Each Child Development Home shall obtain and maintain documentation establishing that each person living in the home that houses the Facility has been, within the preceding one (1) year period, examined by a licensed health care professional and certified by that professional to be free of communicable disease.

328 CRIMINAL AND BACKGROUND HISTORY CHECKS

328.1 The Child Development Facility shall inform every applicant for employment of the following requirements:

(a) The applicant must satisfactorily complete a criminal background check, as required by the Child and Youth, Safety and Health Omnibus Amendment Act of 2004, effective April 13, 2005 (D.C. Law 15-353, D.C. Official Code §§ 4-1501.01 *et seq*.), and subsequent amendments thereto, and according to the rules promulgated pursuant to that law, or as required by any superseding District of Columbia or federal law, and must also satisfactorily complete a child protection register check, before he or she can be unconditionally employed;

(b) Unless otherwise provided in rules promulgated pursuant to the Child and Youth, Safety and Health Omnibus Amendment Act or superseding law, the criminal background and child protection register checks must both be completed within the three (3) months preceding application;

(c) Unless otherwise provided in rules promulgated pursuant to the Child and Youth, Safety and Health Omnibus Amendment Act or superseding law, the applicant must provide the Facility with the certified results of the criminal background and child protection register checks, or, at the Facility's discretion, with all information that will enable the Facility to promptly obtain the results of the criminal background and child protection register checks of the applicant, including each state in which the applicant has resided or worked, the applicant's social security number, and all names the applicant has used;

(d) The applicant has the right to obtain copies of the criminal background and child protection register check reports and to challenge the accuracy and completeness of the reports;

(e) The Facility shall deny employment to any person who has been convicted of an offense, in the District of Columbia or in any other jurisdiction, which constitutes a bar to employment in an agency or entity that provides direct services to children and youth, or as a result of which a duly authorized District of Columbia Government official has determined that the person poses a danger to children or youth, as provided in the Child and Youth, Safety and Health Omnibus Amendment Act, or in subsequent amendments thereto, or in rules promulgated pursuant to that law, or as provided in any superseding District of Columbia or federal law, as more fully described in subsection 313.1(e) of this Chapter, and shall deny employment to any person who has been adjudicated as a child abuser or neglecter, or who has been determined, following a proceeding in which due process rights were afforded, by the applicable child protection agency or authority to have been a child abuser or neglecter, in the District of Columbia or in any other jurisdiction; and

(f) The Facility may deny employment to the applicant until the results of the criminal background and child protection register checks are final.

328.2 All records of criminal background checks and child protection register checks of applicants and employees shall be confidential.

328.3 The Facility shall require the applicant to provide the names of and contact information for at least three (3) references, who shall be unrelated to the applicant. The Facility shall check at least three (3) references for each applicant, and shall ascertain that the applicant is suitable for employment in a position of close interaction with children, prior to employment of the applicant.

328.4 The Facility shall maintain a record of the reference checks performed for each applicant. The record shall include either: a signed and dated letter of reference received by the Facility; or documentation of a reference check conducted by telephone, including the name of the Facility licensee, Caregiver, Center Director, or designee conducting the check, the name and telephone number of the reference, the date of the check, and written comments regarding the check.

328.5 The Facility may enter into a conditional employment agreement with an applicant pending the outcome of the criminal background and child protection register checks, provided that the applicant submits to the Facility a signed notarized statement affirming that he or she has not been convicted of any offense listed in section 313 of this Chapter nor has been placed on a child protection register, and that the reference checks indicate that the applicant is suitable for employment in a position of close interaction with children.

328.6 No Facility shall be subject to civil liability that, in good faith, relies on a criminal background check, a child protection register check, or a reference check to terminate, or to refuse to offer employment to, any individual.

328.7 Updated criminal background and child protection register checks shall be conducted as required by the Child and Youth, Safety and Health Omnibus Amendment Act or by superseding District of Columbia or federal law.

329 POLICIES AND PROCEDURES ON DISCIPLINE

329.1 The Facility shall have a written policy describing the philosophy of discipline and the specific methods of discipline that the Facility uses. Discipline shall be constructive and developmentally appropriate, and shall include child guidance and management techniques using redirection, separation from the problem situation, talking with the child about the situation, and praise for appropriate behavior.

329.2 The methods of discipline described in the policies and procedures shall be utilized by all Facility staff, including employees and volunteers.

329.3 The following methods of discipline shall not be employed:

(a) Physical harm, including punching, pinching, shaking, spanking, biting, yanking and poking;

(b) Fear and/or humiliation;

(c) Derogatory remarks and/or profane language;

(d) Confinement in a locked room or enclosed area;

(e) Forced feeding, or withholding of food, rest, toilet use or outdoor activities or play; and

(f) Physical and/or chemical restraints.

329.4 Separation, when used as discipline, shall be brief in duration and shall be appropriate to the child's age and developmental level and to the circumstances necessitating the discipline. Any child separated shall be placed in a safe, lighted, well-ventilated room, within the sight and hearing of an adult at all times.

329.5 Authority to discipline shall never be delegated to another child.

329.6 The parent or guardian of each child enrolled in the Facility shall receive a copy of the Facility's discipline policy.

330 POLICIES AND PROCEDURES ON FACILITY OPERATIONS

330.1 The Facility shall develop and implement policies and procedures in the following areas:

(a) Admissions and enrollments, including policies related to children with disabilities, illness or other special needs;

(b) Ages of children accepted;

(c) Days, hours, and periods of operation;

(d) Type(s) of child care services provided;

(e) Provision of meals and snacks;

(f) Fees and payment plans, including fees for different types of services and/or specific services, and refund policy;

(g) Transportation arrangements;

(h) Provisions for children with special needs, including arrangements that must be made by parent(s) or guardian(s);

(i) Emergency evacuation and sheltering in place;

(j) Emergency medical care;

(k) Administration of medication;

(l) Reporting unusual incidents;

(m) Reporting and responding to reportable communicable diseases;

(n) Staff qualifications;

(o) Procedures regarding sanitation practices;

(p) Animals and pets in the Facility;

(q) Grievance procedures;

(r) Parents' and guardians' participation in and access to the Facility, including opportunities to communicate with teachers concerning their child's development, and information parents and guardians should share with the Facility regarding their child's health status;

(s) Periodic reporting of the child's progress to the parent(s) or guardian(s); and

(t) Any other policies or procedures that may be required by this Chapter.

331 GENERAL PERSONNEL REQUIREMENTS FOR CENTERS

331.1 In each Child Development Center, the program shall be managed by a Center Director. The Center Director shall be assisted by teachers, assistant teachers and aides, as further specified in this Chapter, in the case of a Center serving infants, toddlers, and preschoolers, and by group leaders and assistant group leaders, as further specified in this Chapter, in the case of a Center providing out-of-school-time care. In all Centers, the Center Director and staff may be assisted by volunteers if desired.

331.2 Each employee or volunteer shall be mentally and physically able to perform the duties assigned to him or her.

331.3 The Facility shall not permit a person with a reportable communicable disease to be on duty in program space, or in common indoor or outdoor spaces utilized by the children, or to have contact with a child in care, without the written approval of a licensed health care practitioner.

331.4 Staff and visitors to the Facility shall not smoke or use tobacco products in program areas while children are in care, and tobacco products shall be kept out of the reach of children in care.

331.5 When children are in the care of the Facility, either on the premises or off-site, no staff member shall be under the influence of, or consume, alcoholic beverages or illegal drugs.

331.6 All paid staff employed in a licensed Child Development Center on the effective date of these rules shall have two (2) years from that date within which to meet the specific qualification requirements, as provided by this Chapter, for their positions, unless otherwise specifically stated.

332 CENTER DIRECTOR QUALIFICATIONS

332.1 The Center Director in a Child Development Center that serves one or more infants, toddlers, and/or preschoolers shall meet one of the following qualification requirements:

(a) A bachelor's or master's degree from an accredited college or university in early childhood education or early childhood development;

(b) A bachelor's degree or higher from an accredited college or university, at least fifteen (15) credit hours from an accredited college or university in early childhood education or early childhood development, and at least one (1) year supervised experience working with children in a licensed District of Columbia Child Development Center or its equivalent in another jurisdiction;

(c) An associate's degree from an accredited college or university in early childhood education or early childhood development, and at least three (3) years supervised experience working with children in a licensed District of Columbia Child Development Center or its equivalent in another jurisdiction;

(d) At least forty-eight (48) credit hours from an accredited college or university, at least fifteen (15) credit hours from an accredited college or university in early childhood education or early childhood development, and at least four (4) years supervised experience working with children in a licensed District of Columbia Child Development Center or its equivalent in another jurisdiction;

(e) A District of Columbia Director Credential as approved by the National Association for the Education of Young Children, or the equivalent Director Credential awarded by another jurisdiction, plus at least five (5) years supervised experience working with children in a licensed District of Columbia Child Development Center or its equivalent in another jurisdiction; or

(f) Employment as a qualified Center Director in a licensed Child Development Center in the District of Columbia on the effective date of these rules, provided that the Center Director achieves compliance with (a), (b), (c), (d), or (e) within no more than five (5) years following said date.

332.2 Any person who is employed as a qualified Center Director in a licensed Child Development Center in the District of Columbia on the effective date of these rules, and who has been so employed continuously since July 1, 1975, or earlier, may apply to the Director of the Department of Health for a waiver of one or more of the qualification requirements contained within this section.

332.3 For the purposes of this section, early childhood development or early childhood education includes the following subject areas:

(a) Growth and development of infants, toddlers, and/or children;

(b) Care and education of children with special needs and/or exceptionality;

(c) Health and physical education of infants, toddlers, and/or children;

(d) Play therapy;

(e) Language development and/or early literacy;

(f) Children's literature;

(g) Arts education;

(h) Child, adolescent, educational and/or abnormal psychology;

(i) Nutrition for children;

(j) Family development;

(k) Methods of teaching;

(l) Classroom management;

(m) Curriculum programs and activities for infants, toddlers, and/or children;

(n) Educational evaluation and measurement;

(o) Early Childhood Development or Youth Development administration;

(p) Diversity; and

(q) Any other area as determined by the Director.

332.4 Each Center Director shall successfully complete, prior to or within one (1) year of employment as a Center Director, a total of no less than twelve (12) hours of training, from an accredited college or university or from another source approved by the District of Columbia government, in the following subject areas:

(a) Human resources;

(b) Management and administration;

(c) Financial management;

(d) Planning, development, and evaluation of child development programs;

(e) Curriculum of child development programs; and

(f) Evaluation and measurement of children.

332.5 Each Center Director shall attend, upon the request of the Department of Health, periodic regulatory compliance review sessions presented by or under the auspices of the Department.

333 DUTIES AND RESPONSIBILITIES OF CENTER DIRECTORS

333.1 The Center Director shall be physically present in the Facility at least one-half (1/2) of the time during the Center's hours of operation. No less than one-half (1/2) of that time shall be during peak hours of operation.

333.2 The Center Director shall be responsible for the supervision, program planning and administration of the Child Development Center and its staff, consistent with the written operational policies and philosophy, and shall assume the following responsibilities:

(a) Ensuring compliance with the requirements of this Chapter, and with all applicable federal and District of Columbia laws;

(b) Selecting and supervising qualified staff;

(c) Providing orientation and training to each staff member as required;

(d) Designating a teacher or group leader to assume responsibility for the Facility's operation in the absence of the Center Director;

(e) Ensuring that adult/child ratios are maintained in compliance with section 343 of this Chapter;

(f) Ensuring parent involvement in the program and in the activities of the Center;

(g) Reporting unusual incidents as defined in section 399 and in accordance with section 322 of this Chapter;

(h) Ensuring that at least one (1) staff member with a current CPR and First Aid certification for children is present on the Facility premises at all times;

(i) Attending in-service training programs and completing continuing education requirements as specified; and

(j) Reporting evidence of child abuse and neglect that comes to the Facility staff's attention, in accordance with section 322 of this Chapter.

334 TEACHER QUALIFICATIONS

334.1 A teacher shall be at least twenty (20) years of age and meet one of the following requirements:

(a) An associate's degree or higher from an accredited college or university in early childhood education or early childhood development;

(b) An associate's degree or higher from an accredited college or university, at least fifteen (15) credit hours from an accredited college or university in early childhood education or early childhood development, and at least one (1) year supervised experience working with children in a licensed District of Columbia Child Development Center or its equivalent in another jurisdiction;

(c) At least forty-eight (48) credit hours from an accredited college or university, at least fifteen (15) credit hours from an accredited college or university in early childhood education or early childhood development, and at least two (2) years supervised experience working with children in a licensed District of Columbia Child Development Center or its equivalent in another jurisdiction;

(d) A valid Child Development Associate (CDA) credential, specifying that the individual is qualified for the assigned age classification; or

(e) Satisfactory completion of a child care certification course of no less than 90 hours from an accredited college or university, approved by the Director of the Department of Health or his/her designee, and at least three (3) years supervised experience working with children in a licensed District of Columbia Child Development Center or its equivalent in another jurisdiction.

334.2 For the purposes of this section, early childhood development and early childhood education shall include the courses listed in subsection 332.3 of this Chapter.

335 DUTIES AND RESPONSIBILITIES OF TEACHERS

335.1 The duties of each teacher in a Child Development Center shall include the following:

(a) Assisting the Center Director in ensuring compliance with this Chapter,

(b) Providing, and/or overseeing the provision of, adequate supervision and appropriate care for all of the children in his or her class or group at all times;

(c) Planning and initiating daily activities based on the assessed strengths, interests and needs of all of the children in his or her class or group;

(d) Assisting the Center Director in implementing the Facility's policies and procedures;

(e) Supervising subordinate staff;

(f) Attending in-service training programs and completing continuing education requirements, as required;

(g) Communicating regularly with the parent(s) or guardian(s) of each child in his or her class or group about the development of their children;

(h) Assuming responsibility for the program of the Facility in the absence of the Center Director, if and when so designated; and

(i) Performing other appropriate duties as requested by the Center Director.

336 ASSISTANT TEACHER QUALIFICATIONS

336.1 An assistant teacher in a Child Development Center shall be at least eighteen (18) years of age and shall meet one of the following qualification requirements:

(a) At least twenty-four (24) credit hours from an accredited college or university, plus demonstrated skill and competence with young children as satisfactorily determined by the Center Director;

(b) A high school diploma or General Education Development certificate, plus certification of training and competence in the field of early childhood education or early childhood development from an accredited vocational high school; or

(c) A high school diploma or General Education Development certificate, plus one (1) year of supervised experience working with children in a licensed District of Columbia Child Development Center or its equivalent in another jurisdiction.

336.2 For the purposes of this section, early childhood development and early childhood education shall include the courses listed in subsection 332.3 of this Chapter.

337 DUTIES AND RESPONSIBILITIES OF ASSISTANT TEACHERS

337.1 The duties of each assistant teacher in a Child Development Center shall include the following:

(a) Providing supervision and appropriate care to the children in his or her class or group, under the direct supervision of a teacher or the Center Director;

(b) Assisting the teacher in planning the daily program of activities;

(c) Assisting the teacher in regular communication with the parent(s) or guardian(s) of each child in his or her class or group about their children's development; and

(d) Attending in-service training programs and completing continuing education requirements, as required.

338 CONTINUING EDUCATION REQUIREMENTS FOR STAFF IN CENTERS

338.1 Each paid employee of a Child Development Center serving infants, toddlers, and/or preschoolers whose duties and/or responsibilities include the care of enrolled children shall participate in at least eighteen (18) hours of training annually in the fields of child and youth development and/or early childhood education.

338.2 The required annual training shall include the following subject areas:

(a) Child health, including standard health care precautions, and communicable diseases and appropriate responsive action thereto;

(b) Child abuse and neglect prevention, detection and reporting, including mandatory reporting requirements;

(c) Developmentally appropriate programming for infants, toddlers, preschool and/or school-age children, as applicable;

(d) Permissible and developmentally appropriate methods of child discipline;

(e) Inclusion of children with special needs, including the Americans with Disabilities Act; and

(f) Precautions against Sudden Infant Death Syndrome; and

(g) Any other area as determined by the Director.

338.3 Acceptable subject areas for continuing education and training, as required by this section, include the following:

(a) Any area listed in subsection 332.3 of this Chapter;

(b) Child abuse and neglect recognition, prevention, and mandatory reporting;

(c) First aid and CPR for children;

(d) Prevention, recognition, and management of communicable diseases;

(e) Medication administration;

(f) Use of physical space and play equipment;

(g) Communication and collaboration with parents and families;

(h) Community health and social services resources for children and families;

(i) Planning programs and activities for children and families;

(j) Enhancing self-control and self-esteem in children;

(k) Developmentally appropriate discipline methods and techniques for infants, toddlers, and/or children; and

(l) Any other area as determined by the Director.

338.4 In-service training that meets the requirements of this Chapter may occur in a variety of settings, including, but not limited to: seminars; courses held by colleges, universities or technical schools; workshops, conferences, and association meetings; and accredited distance education, including training via the Internet.

338.5 Each Facility shall obtain and maintain adequate documentation of each staff member's participation in continuing education. Acceptable documentation shall include one or more of the following:

(a) Transcript from an accredited college, university or technical school;

(b) Certification of participation from a training source approved by the Distance Education Training Council;

(c) Written documentation verifying completion of training in First Aid for children, CPR for children, and/or common childhood illnesses, from acceptable sponsoring entities, including the American Red Cross, the American Heart Association, the National Safety Council, and other similarly recognized and accredited organizations; and

(d) A signed and dated statement from the trainer, on a form approved by the Director, verifying the staff member's participation in a training program conducted by a trainer licensed, certified, or otherwise approved by the District of Columbia government.

338.6 Each volunteer serving a Child Development Center shall participate, at least annually, in a training seminar, which shall include a review of the subject areas listed in subsection 338.2.

339 AIDES AND VOLUNTEERS

339.1 Each aide or volunteer in a Child Development Center shall work under the direct supervision of a teacher, assistant teacher, group leader, assistant group leader, or Center Director at all times.

339.2 The duties of each aide or volunteer in a center shall include the following:

(a) Assisting the teacher, assistant teacher, group leader, assistant group leader, and/or Center Director as directed;

(b) Providing supervision and appropriate care to the children in his or her assigned class or group, under the direct supervision of a teacher, assistant teacher, group leader, assistant group leader, or Center Director; and

(c) Attending in-service training programs and completing continuing education requirements, as required.

339.3 The Facility shall ensure that no aide or volunteer has sole responsibility for a group or classroom, or for the Center, at any time.

340 INDOOR PROGRAM SPACE IN CENTERS

340.1 For the purposes of this Chapter, "Program Space" is defined as space within the Facility, exclusive of: food preparation areas, kitchens, bathrooms, toilets, offices, staff rooms, corridors, hallways, stairways, closets, lockers, laundry rooms, furnace rooms, file cabinets, storage spaces, and non-movable furniture that is not designed for the use of enrolled children.

340.2 Each Facility shall provide adequate indoor space for the daily program of the Facility. The Director shall determine the licensed capacity of each Facility serving infants, toddlers, and/or preschoolers so that there is a minimum of thirty-five square feet (35 ft^2) of program space per child. Each such Facility shall maintain a minimum of thirty-five square feet (35 ft^2) of program space per child at all times.

340.3 The temperature within each room of program space shall be maintained at between sixty-five degrees Fahrenheit (65°F) and seventy-five degrees Fahrenheit (75°F) during the winter months, and between sixty-eight degrees Fahrenheit (68°F) and eighty-two degrees Fahrenheit (82°F) during the summer months.

340.4 Each Facility shall provide a separate room, or a separate designated area within a room, for the temporary or ongoing care of a child who needs to be separated from the group due to injury or illness. This room or area shall be located so that any child placed within it is within sight and hearing of the Facility staff at all times, and so that toilet and lavatory facilities are readily accessible. This room or area may be used for other purposes when not needed for such separation of a child.

340.5 If a Child Development Center is located in a building that also houses other entities or persons, the portion of the building to which the children from the Facility have access shall be for the exclusive use of children and staff of the Facility during the Facility's hours of operation, with the exception of entryways, hallways, and other common areas in the building normally available for use by the public.

341 ADDITIONAL INDOOR PROGRAM SPACE REQUIREMENTS FOR INFANTS, TODDLERS, AND YOUNG CHILDREN IN CENTERS

341.1 The indoor program space for infant and toddler activities shall contain a minimum of thirty-five square feet (35 ft^2) per child of unencumbered instructional and/or play space, or a minimum of forty-five square feet (45 ft^2) per child of encumbered instructional or play space measured on the inside wall-to-wall dimensions.

341.2 For the purposes of this section, “Unencumbered Instructional and/or Play Space” means program space that is free of permanent fixtures, architectural structures, equipment, bedding, and furniture that are unrelated to the program, and “Encumbered Instructional and/or Play Space” means program space that is restricted by permanent fixtures, architectural structures, equipment, bedding, or furniture that are unrelated to the program.

341.3 Children under the age of two (2) years six (6) months, as well as non-ambulatory children, may only occupy space on the street level, unless the Facility receives explicit written approval from the Department of Fire and Emergency Medical Services to care for such children on another level.

342 OUTDOOR SPACE, EQUIPMENT AND SAFETY IN CENTERS

342.1 Each Child Development Facility serving infants, toddlers, and preschoolers shall provide suitable space for outdoor play. This play space shall be in an enclosed yard on the Facility premises, in a nearby park or playground, or in a rooftop play space that meets the requirements of this Chapter.

342.2 The Facility shall maintain the outdoor play space so that it is free of conditions that are, or might be, hazardous to the health and/or safety of children.

342.3 Each Facility shall provide a minimum of sixty square feet (60 ft^2) of outdoor play space per child, based on the maximum number of children scheduled to play outdoors at any one time.

342.4 All outdoor play spaces shall comply with the requirements of the District of Columbia Building Code, and with the Facility's Certificate of Occupancy.

342.5 The Facility shall comply with the adult/child ratios listed in section 343 of this Chapter at all times when children are going to, using, or leaving the outdoor play space.

342.6 The Facility shall ensure that staff, while supervising a group of children in the outdoor play space, are able to summon another adult staff member if the need arises, without leaving the children unsupervised at any time.

342.7 The Facility shall ensure that the outdoor play space is supervised by adult staff in sufficient quantity and appropriate placement to ensure that all children are within sight and hearing of at least one staff member at all times.

343 GROUP SIZE AND ADULT/CHILD RATIOS

343.1 Each Child Development Center shall have at least two (2) staff persons caring for each group at all times. In Centers serving infants, toddlers, and/or preschoolers, there shall be a teacher, who may also be the Center Director, and an assistant teacher or aide for each group at all times, except as further specified herein.

343.2 During non-peak hours or during nap/rest periods, another adult staff member or adult volunteer may substitute for one of the staff members specified at subsection 343.1, provided that the group is supervised by at least one teacher or assistant teacher.

343.3 In part-day programs, operating no more than four (4) hours per day, the Child Development Center may substitute an adult volunteer for an assistant teacher or aide.

343.4 In Centers providing out-of-school-time care, the specific requirements of section 348 of this Chapter shall be deemed sufficient for the out-of-school-time program, to the extent that they may differ from the requirements contained in this section.

343.5 The Facility shall maintain the adult/child ratios and group sizes as specified herein:

(a) For Centers serving infants, toddlers, and preschoolers:

AGE OF CHILDREN	ADULT/CHILD RATIO	MAXIMUM SIZE OF GROUP
0 – 12 months	**1:3**	**9**
0 – 12 months	**1:4**	**8**
12 – 24 months	**1:3**	**9**
12 – 24 months	**1:4**	**8**
24 – 30 months	**1:4**	**12**
30 months through 3 years	**1:8**	**16**
4 – 5 years	**1:10**	**20**

(b) For Centers providing out-of-school-time care to children of legal school age:

AGE OF CHILDREN	ADULT/CHILD RATIO	MAXIMUM SIZE OF GROUP
Under 6 years	**1:12**	**24**
6 years and older	**1:15**	**30**

343.6 In determining adult/child ratios and maximum group sizes for children up to twenty-four (24) months old, the maximum group size may increase by one child when the adult/child ratio decreases by one child per adult, as shown in the table above at subsection 343.5(a).

343.7 When children of different ages are combined in one group, the adult/child ratio for the youngest child shall apply.

343.8 When children are swimming or playing in water, including "baby" pools, "wading" pools, and full-depth pools, the Facility shall maintain the following adult/child ratios in addition to complying with the water safety requirements contained in section 368 of this Chapter:

AGE OF CHILDREN	ADULT/CHILD RATIO
0 – 24 months	**1:1**
24 months and above	**Ratios in subsection 343.5 apply**

344 GENERAL DAILY PROGRAM ACTIVITIES IN CENTERS

344.1 Each Child Development Center serving infants, toddlers, and preschoolers shall provide time each day for both quiet and active play, suitable to the ages and abilities of the children enrolled at the Facility.

344.2 Each Center serving children in a full-day program shall ensure that each child, including infants, toddlers, and preschoolers, has a minimum of two (2) hours of outdoor play or outdoor activity each day.

344.3 The Facility shall devise and implement a program of activities suitable to the ages and abilities of all of the children enrolled at the Facility. A copy of the program schedule for each age group shall be furnished by the Facility to the Director for evaluation upon request.

344.4 The Director shall evaluate a Facility's program of activities, and shall approve it if the following requirements are met:

(a) The program shall include outdoor play each day, except that in extremely inclement weather the program may substitute indoor gross motor play such as climbing, jumping, running, riding wheel toys, and sports;

(b) All play materials shall be arranged in an orderly fashion, at heights that allow young children to select, remove, and replace materials with a minimum of assistance during appropriate times throughout the daily program; and

(c) The program shall include a balance of both quiet and active play throughout the day.

344.5 The Facility shall ensure that its staff observe and follow the Facility's established program of activities.

344.6 The Facility shall develop a written activity plan for each group of children that implements the elements of the program of activities.

344.7 The Facility shall ensure that the daily activities for each group of children include both structured and unstructured times, and both staff-directed and child-initiated experiences.

344.8 The Facility shall ensure that its program of activities provides periods of rest, the duration and scheduling of which are appropriate to prevent fatigue and to meet the physical needs of the children enrolled at the Facility, taking into account the ages and developmental levels of the children. Each child in a full-day program shall have specific times designated for rest each day.

344.9 The Facility shall ensure that each child has a supply of clean, dry clothing in case of an emergency, and that staff promptly remove all wet or soiled clothing from a child and replace it with this clean and dry clothing.

345 CENTER DIRECTOR QUALIFICATIONS AND RESPONSIBILITIES FOR OUT-OF-SCHOOL-TIME PROGRAMS

345.1 Each Child Development Center that provides out-of-school-time care, either alone or in conjunction with infant, toddler, and/or preschool care, shall have a Center Director.

345.2 The Center Director for a Center that provides both out-of-school-time care and care for infants, toddlers, and/or preschoolers shall meet the qualification requirements for a Center Director in accordance with section 332 of this Chapter.

345.3 The Center Director in a Child Development Center that provides out-of-school-time care only shall be at least twenty-one (21) years of age and shall meet one of the following qualification requirements:

(a) A bachelor's degree or higher from an accredited college or university in education or child and youth development;

(b) A bachelor's degree or higher from an accredited college or university, plus at least one (1) year supervised experience working with children of legal school age and under the age of fifteen (15) years, in an accredited school or camp, a licensed Child Development Center, or the equivalent;

(c) An associate's degree from an accredited college or university in education or child and youth development, plus at least one (1) year supervised experience working with children of legal school age and under the age of fifteen (15) years, in an accredited school or camp, a licensed Child Development Center, or the equivalent;

(d) At least forty-eight (48) credit hours from an accredited college or university, at least fifteen (15) credit hours from an accredited college or university in education or child and youth development, plus at least eighteen (18) months supervised experience working with children of legal school age and under the age of fifteen (15) years, in an accredited school or camp, a licensed Child Development Center, or the equivalent;

(e) A District of Columbia Director Credential, or the equivalent Director Credential awarded by another jurisdiction, plus at least two (2) years supervised experience working with children of legal school age and under the age of fifteen (15) years, in an accredited school or camp, a licensed Child Development Center, or the equivalent; or

(f) Employment as a qualified Center Director in a licensed Child Development Center providing out-of-school-time care in the District of Columbia on the effective date of these rules, provided that the Center Director achieves compliance with (a), (b), (c), (d), or (e) within no more than five (5) years following said date.

345.4 In order to qualify for the purpose of this section, a period of supervised work experience must include an average of no less than twenty (20) hours per week. One (1) year experience is equal to one thousand (1,000) hours. Multiple qualifying periods may be aggregated in order to achieve the required total.

345.5 The duties and responsibilities of the Center Director in a Center that provides out-of-school-time care shall include those contained in section 333 of this Chapter.

346 GROUP LEADER QUALIFICATIONS AND RESPONSIBILITIES FOR OUT-OF-SCHOOL-TIME PROGRAMS

346.1 In a Child Development Center that provides both out-of-school-time care and care for infants, toddlers, and/or preschoolers, a qualified teacher shall be deemed to meet the qualification requirements for a group leader.

346.2 A group leader in a Child Development Center that provides out-of-school-time care only shall be at least eighteen (18) years of age and shall meet one of the following qualification requirements:

(a) An associate's degree or higher from an accredited college or university in education or child and youth development;

(b) At least forty-eight (48) credit hours from an accredited college or university, at least nine (9) credit hours from an accredited college or university in education or child and youth development, plus at least six (6) months supervised experience working with children of legal school age and under the age of fifteen (15) years, in an accredited school or camp, a licensed Child Development Center, or the equivalent; or

(c) A high school diploma or its equivalent, plus at least one (1) year supervised experience working with children of legal school age and under the age of fifteen (15) years, in an accredited school or camp, a licensed Child Development Center, or the equivalent.

346.3 In order to qualify for the purpose of this section, a period of supervised work experience must include an average of no less than twenty (20) hours per week. One (1) year experience is equal to one thousand (1,000) hours. Multiple qualifying periods may be aggregated in order to achieve the required total.

346.4 The duties and responsibilities of each group leader shall include the following:

(a) Supervising, assisting, and guiding the children in his or her assigned group;

(b) Assisting the Center Director in planning the program of care;

(c) Supervising subordinate staff; and

(d) Communicating regularly with the parent(s) or guardian(s) of each child in his or her group concerning their children.

347 ASSISTANT GROUP LEADER QUALIFICATIONS AND RESPONSIBILITIES FOR OUT-OF-SCHOOL-TIME PROGRAMS

347.1 In a Child Development Center that provides both out-of-school-time care and care for infants, toddlers, and/or preschoolers, a qualified assistant teacher shall be deemed to meet the qualification requirements for an assistant group leader.

347.2 An assistant group leader in a Child Development Center that provides out-of-school-time care only shall be at least eighteen (18) years of age, shall have at least a high school diploma or its equivalent, and shall have at least six (6) months supervised experience working with children of legal school age and under the age of fifteen (15) years, in an accredited school or camp, a licensed Child Development Center, or the equivalent.

347.3 In order to qualify for the purpose of this section, a period of supervised work experience must include an average of no less than twenty (20) hours per week. Six (6) months experience is equal to five hundred (500) hours. Multiple qualifying periods may be aggregated in order to achieve the required total.

347.4 Each assistant group leader shall work under the direct supervision of a group leader.

347.5 The duties and responsibilities of an assistant group leader shall be to aid the group leader in guiding the activities of the children.

348 STAFFING AND GROUP SIZE FOR OUT-OF-SCHOOL-TIME PROGRAMS

348.1 Each group in a Child Development Center that provides out-of-school-time care shall be supervised by at least two (2) adults at all times.

348.2 Each group containing one or more children eleven (11) years of age or younger shall be supervised by, at a minimum, a group leader and an assistant group leader. A group containing children all of whom are twelve (12) years of age and older may be occasionally supervised by a volunteer in addition to the group leader, provided that the volunteer is at least two (2) years older than the oldest child in the group.

348.3 The group sizes and adult/child ratios specified in section 343 of this Chapter shall apply to out-of-school-time care programs, except as specified further in this section. For the purpose of achieving the required ratio for any group, the Facility may count all staff members, including those who meet the qualifications of Center Director, group leader and assistant group leader, provided that each such staff member is so counted only for the time that he or she is directly caring for that group of children.

348.4 The Director may approve reasonable variations to the prescribed group size limitations for a facility, including flexible groupings and sub-groupings, taking into consideration the following areas:

(a) Qualifications and numbers of staff and volunteers;

(b) Program structure and focus;

(c) Ages and developmental levels of children served;

(d) Usable space; and

(e) The Facility's past history of compliance.

348.5 The Facility shall have a written staffing plan to ensure the supervision of all enrolled children at all times. If written approval is obtained from the Director, the staffing plan may permit different levels of supervision at different times, consistent with the level of risk involved in each activity.

348.6 The Facility shall ensure that its staff members keep each enrolled child within continuous visual and hearing range at all times when the child is in the care of the facility, both on the facility premises and elsewhere. When a child uses the toilet, the staff shall supervise with appropriate respect for the child's privacy.

349 TRAINING FOR STAFF IN OUT-OF-SCHOOL-TIME PROGRAMS

349.1 Each paid employee of a Child Development Center providing out-of-school-time care whose duties and/or responsibilities include the care of enrolled children shall participate in at least ten (10) hours of training annually in the fields of child and youth development and/or education.

349.2 The required annual training shall include the subject areas specified in subsection 338.2 of this Chapter, as applicable to school-age children.

349.3 Acceptable subject areas for continuing education and training include the subject areas specified in subsection 338.3 of this Chapter, as applicable to school-age-children, plus the following additional areas as applicable to the age range of the children served by the Facility:

(a) Recreation;

(b) Science and technology;

(c) Music, visual, and performing arts;

(d) Youth development; and

(e) Guidance.

350 INDOOR SPACE AND PROGRAMMING REQUIREMENTS FOR OUT-OF-SCHOOL-TIME PROGRAMS

350.1 Each Child Development Center that provides out-of-school-time care shall comply with the program space requirements for Centers contained in section 340 of this Chapter, with the exception of subsection 340.2.

350.2 The Facility shall ensure that adequate room is provided for all program activities, and shall:

(a) Arrange the space to permit the easy accommodation of the entire range of activities offered by the program;

(b) Arrange the space so that various activities can occur simultaneously without disruption of one by another; and

(c) Ensure that there is adequate and convenient storage space for equipment, materials, and the personal possessions of enrolled children and Facility staff.

350.3 Each Facility shall provide the enrolled children with an activity program which:

(a) Is appropriate to the ages, developmental levels, abilities, and interests of the children enrolled;

(b) Provides a balance among self-initiated, group-initiated, and staff-initiated activities;

(c) Provides opportunities for learning, self-expression, and participation in a variety of stimulating activities;

(d) Provides opportunities for civic engagement and community service; and

(e) Fosters self-reliance, social responsibility, growth and development.

350.4 Each Facility shall develop a written activity plan for each group of children that implements the elements of the activity program. The plan shall include a daily schedule of activities and routines which offers reasonable regularity, and shall include snack and meal periods as applicable, quiet and active activities, and opportunities for learning and self-expression.

351 CHILD DEVELOPMENT HOMES

351.1 A Child Development Home may be licensed to provide care for up to six (6) children, with no more than two (2) children being non-ambulatory or under two (2) years of age. For the purposes of this Chapter, the number of children in the Child Development Home, and the number of children under two (2) years of age, shall include all children age four (4) and younger who reside in the home of the Caregiver.

351.2 The Caregiver shall be responsible for compliance with all District of Columbia laws and regulations applicable to a Facility, including all sections in this Chapter unless specified to be applicable only to Child Development Centers.

352 CAREGIVER QUALIFICATIONS AND RESPONSIBILITIES

352.1 Each Child Development Home Caregiver shall meet the following requirements:

(a) Be at least eighteen (18) years of age;

(b) Have a high school diploma or a General Education Development certificate, with the exception that all Caregivers licensed on the effective date of these rules shall have four (4) years from that date within which to obtain the diploma or certificate;

(c) Attend an annual regulatory compliance review seminar presented by the Department of Health;

(d) Attend at least three (3) child development-related training courses, approved by the District of Columbia government, per year, for a total of no less than nine (9) hours of training per year;

(e) Successfully complete training, as approved by the District of Columbia government, on precautions against Sudden Infant Death Syndrome;

(f) Undergo a physical examination by a licensed health care practitioner at least annually, and obtain written and signed documentation, from the examining practitioner, that the Caregiver, at the time of the examination, is free of tuberculosis and other diseases in communicable form, and is physically capable of caring for children; and

(g) Undergo training and obtain certification in First Aid and CPR for children, and maintain documentation of current certification in both.

352.2 The duties of a Child Development Home Caregiver shall include, but shall not be limited to, the following:

(a) Orienting each member of the Facility household to the standards and rules governing Child Development Homes;

(b) Operating the home in compliance with all applicable laws and rules;

(c) Supervising each enrolled child;

(d) Ensuring that any other duties or activities performed on behalf of the household do not interfere with the supervision and care given to the enrolled children;

(e) Ensuring that each person residing in the home has a physical examination by a licensed health care practitioner at least annually and that each is certified by the examining practitioner to be free of communicable disease;

(f) Supervising and accompanying all visitors who are present in the home or on the grounds during the Facility's hours of operation;

(g) Reporting to the Director, and to the parent(s) or guardian(s) of each affected child, any unusual incident or accident that occurs in the home, in accordance with the section 322 of this Chapter.

(h) Ensuring that an adequate number of back-up personnel, qualified in accordance with the requirements set forth in this Chapter and registered with the Director, are engaged by the Facility and are available to be present at the Facility when needed, in accordance with this Chapter, at all times during the Facility's hours of operation;

(i) Developing and implementing written contingency plans, including written instructions for all Facility personnel and for all responsible household members, for use in case of emergencies, both medical and non-medical; and

(j) Being responsible for the overall supervision and administration of the program of care provided to the enrolled children.

353 CHILD DEVELOPMENT HOME INDOOR SPACE REQUIREMENTS AND EQUIPMENT

353.1 Each Child Development Home must obtain approval from the Director for the use of all program space, and may only offer child care in approved space.

353.2 The Caregiver and/or Facility staff shall arrange the play space and the furniture in the approved program space within the Child Development Home so as to allow adequate room for active and quiet play and for individual and group activities.

353.3 Program space does not include: the food preparation areas within the kitchen, bathrooms, hallways, stairways, closets, laundry rooms or areas, furnace rooms, and storage spaces.

353.4 Each Child Development Home shall provide a sufficient amount, as determined by the Director or his or her designee, of developmentally appropriate toys, games, equipment, materials, and books to meet the needs of the children enrolled at the Facility.

354 CHILD DEVELOPMENT HOME GENERAL DAILY PROGRAM ACTIVITIES

354.1 Each Child Development Home Caregiver shall establish a planned program of activities for the Facility, based on the stage of development of each enrolled child. The Facility must ensure that its daily program shall:

(a) Motivate and stimulate each child's cognitive, physical, social, emotional and creative development;

(b) Contain sufficient continuity and flexibility to meet the needs of each individual child as well as the needs of the group;

(c) Provide a balance of active and quiet learning through play;

(d) Provide both structured and unstructured times, and both Caregiver-directed and child-initiated experiences;

(e) Provide periods of rest, appropriate to the age and developmental needs of each child, including specific designated times for rest each day; and

(f) Provide a balance of indoor and outdoor activities, including a minimum of two (2) hours of outdoor play or outdoor activity each day for each infant, toddler, and preschool-age child in a full-day program.

354.2 If a Child Development Home provides out-of-school-time care to school-age children, the Facility shall develop a program of supervised activities that is designed for school-age children, and that includes, for each child:

(a) Free choice of play;

(b) Opportunities to run, jump and climb;

(c) Opportunities for concentration, alone or in a group;

(d) Time to read or to do homework;

(e) Opportunities for creative activities; and

(f) Opportunities for developing supportive relationships with the Caregiver and with peers.

355 CHILD DEVELOPMENT HOME OUTDOOR SPACE, EQUIPMENT AND SAFETY

355.1 In the absence of suitable outdoor space on the premises of the Child Development Home, such as a fenced yard, the Caregiver shall ensure that all enrolled children are given regular opportunities for safe play at one or more nearby parks or playgrounds.

355.2 Each outdoor play area in use by one or more enrolled children shall be visible to the Caregiver or other approved Facility staff at all times.

355.3 The Caregiver or other approved Facility staff shall supervise all children during all periods of outdoor play.

355.4 Each Child Development Home shall ensure that all outdoor play areas and equipment on the Facility premises are maintained in compliance with the applicable safety requirements of this Chapter, and that all play equipment conforms to the standards established by the U.S. Consumer Product Safety Commission and by the American Society for Testing and Materials.

355.5 If one or more enrolled children swim in a pool, lake or river while under the care of a Child Development Home, the Facility must adhere to the adult/child ratio requirements contained in section 343 of this Chapter, and to the requirements contained in section 368 of this Chapter concerning "Swimming and Water Safety."

356 HEALTH AND SANITATION REQUIREMENTS FOR CHILD DEVELOPMENT HOMES

356.1 Each Child Development Home shall comply with the health and sanitation requirements as set out in sections 370 and 371 of this Chapter, concerning “Handling Diapers, Training Pants and Toys" and "Hand Washing Practices".

356.2 The Facility shall maintain at all times, in a designated location that is readily available to staff and out of reach of children, an adequate quantity of first aid supplies for the number of children enrolled in the Facility.

356.3 The Facility shall ensure that no person, including the Caregiver, staff, residents, and visitors to the home, smokes or uses tobacco products within the program space when one or more children is in the care of the Facility.

356.4 The Facility shall ensure that all tobacco products that may be present in the Facility remain out of the reach of enrolled children at all times.

356.5 When children are in the care of the Facility, either on the premises or off-site, no Caregiver or other staff member shall be under the influence of, or consume, alcoholic beverages or illegal drugs.

356.6 Each Child Development Home shall comply with the infant sleep position requirements (precautions against Sudden Infant Death Syndrome) as set out in section 376 of this Chapter.

357 EXPANDED CHILD DEVELOPMENT HOMES

357.1 Each Expanded Child Development Home may be licensed to provide care for more than six (6) children, up to a maximum of twelve (12) children.

357.2 Each Expanded Child Development Home shall comply with all of the requirements of this Chapter pertaining to Child Development Homes, and with the following additional requirements:

(a) Each Expanded Child Development Home shall have at least two Caregivers; and

(b) Each Expanded Child Development Home shall provide a minimum of thirty-five square feet (35 ft^2) of program space per child.

357.3 No Caregiver in an Expanded Child Development Home is permitted to provide foster care, for either children or adults, on the same premises, without the prior written approval of the Director.

358 QUALIFICATIONS OF CAREGIVERS IN EXPANDED CHILD DEVELOPMENT HOMES

358.1 Each Caregiver in an Expanded Child Development Home shall comply with the qualification requirements for Caregivers in Child Development Homes contained in this Chapter, except as specifically provided herein.

358.2 Each Primary Caregiver in an Expanded Child Development Home shall:

(a) Be at least twenty-one (21) years of age;

(b) Have obtained one of the following:

(1) An associate's degree or higher from an accredited college or university in early childhood education or early childhood development;

(2) At least forty-eight (48) credit hours from an accredited college or university, including at least fifteen (15) credit hours from an accredited college or university in early childhood education or early childhood development;

(3) A current and valid Child Development Associate credential;

(4) A current and valid accreditation credential from the National Association for Family Child Care; or

(5) Subject to the approval of the Director, a current and valid family child care credential from another jurisdiction, obtained by successfully completing a state-approved course of training of at least ninety (90) hours in length; and

(c) Have successfully completed one of the following:

(1) At least one (1) year of operation as the Caregiver in a licensed Child Development Home, or its equivalent in another jurisdiction; or

(2) At least one (1) year of employment in a licensed Child Development Center, or its equivalent in another jurisdiction, as a Center Director, Teacher or Assistant Teacher.

358.3 For the purposes of this section, early childhood development and early childhood education shall include the courses listed in subsection 332.3 of this Chapter.

358.4 Each Associate Caregiver in an Expanded Child Development Home shall:

(a) Be at least eighteen (18) years of age;

(b) Have a high school diploma or a General Education Development certificate, with the exception that all Caregivers licensed on the effective date of these rules shall have four (4) years from that date within which to obtain the diploma or certificate; and

(c) Have successfully completed one of the following:

(1) At least one (1) year of operation as the Caregiver in a licensed Child Development Home, or its equivalent in another jurisdiction; or

(2) At least one (1) year of employment in a licensed Child Development Center, or its equivalent in another jurisdiction, as a Center Director, Teacher or Assistant Teacher.

358.5 Each Caregiver shall be responsible for the performance of all duties listed in subsection 352.2 of this Chapter, concerning "Caregiver Responsibilities".

358.6 The enrolled children shall be supervised at all times by one or both of the Caregivers, or by a substitute Caregiver who is certified in First Aid and CPR for children and has been previously approved by the Director.

359 ADULT/CHILD RATIOS IN EXPANDED CHILD DEVELOPMENT HOMES

359.1 Each Expanded Child Development Home shall comply with the adult/child ratio requirements contained within section 343 of this Chapter.

359.2 An Expanded Child Development Home may provide care for more than two (2) children who are non-ambulatory or under two (2) years of age, provided that the number of such children does not exceed the following:

(a) Four (4) children if there are two (2) Caregivers present; or

(b) Six (6) children if there are three (3) or more Caregivers present.

360 24-HOUR FACILITIES

360.1 Each Child Development Facility that offers twenty-four (24) hour care shall comply with all applicable requirements contained in this Chapter, in addition to the specific requirements listed in this section.

360.2 The Facility shall ensure that each activity is appropriate both for the period of the day and for the age of each participating child.

360.3 The Facility shall obtain written consent from a child's parent(s) or guardian(s) before Facility staff bathe and/or shower that child, with the exception that, in emergency situations such as regurgitation or bedwetting, Facility staff may take appropriate measures to clean an affected child.

360.4 Each Facility shall meet the following requirements for rest and sleep:

(a) If a child is in the care of the Facility after 6:00 p.m. on a regular basis, the Facility shall establish a bedtime routine, in consultation with that child's parent(s) or guardian(s) and taking into account the age and developmental needs of the child and the time of the child's scheduled pick-up from the Facility, on the first day of enrollment, and the Facility shall document the routine in that child's record;

(b) If a child is in the care of the Facility after 6:00 p.m. on an occasional basis, the Facility shall establish a bedtime routine, in consultation with that child's parent(s) or guardian(s) and taking into account the age and developmental needs of the child and the time of the child's scheduled pick-up from the Facility, on each such occasion;

(c) The Facility shall provide each enrolled child with an individual bed, cot, or crib that is appropriate for the child's age and size;

(d) The Facility shall ensure that bed linens are changed before the bed, cot, or crib is used by a different child;

(e) The Facility shall provide, or shall ensure that each enrolled child's parent(s) or guardian(s) provide, appropriate clothing for the child to wear while sleeping;

(f) The Facility shall ensure that all cribs, cots, and beds are maintained in a clean and sanitary condition;

(g) If a Facility provides one or more bunk beds for the use of enrolled children, the Facility shall ensure that no child under seven (7) years of age is placed in a top bunk;

(h) The Facility shall ensure that all beds, cots, cribs and mattresses have firm surfaces and meet the standards established by the Consumer Product Safety Commission;

(i) The Facility shall ensure that all beds, cots, and cribs, when in use, are placed at least two (2) feet apart, and that each is at least two (2) feet away from any radiator and/or window;

(j) The Facility shall ensure that no bed, cot or crib blocks or impedes access to any exit;

(k) The Facility shall ensure that no other person shares a bed, cot or crib with an enrolled child;

(l) The Facility shall ensure that no enrolled child five (5) years of age or older shares a sleeping room with an adult;

(m) The Facility shall ensure that staff monitor sleeping children at least once every three (3) hours, and maintain a written record of this monitoring; and

(n) The Facility shall provide night-lights near the exit of each sleeping room, along each hallway adjacent to a sleeping room, and near each bathroom to be used by enrolled children during the overnight hours.

360.5 Each Facility that provides twenty-four (24) hour care to school-age children shall comply with the following additional requirements:

(a) The Facility shall establish a homework routine for each school-age child, in consultation with the parent(s) or guardian(s) of that child, on the first day of enrollment, and shall document the routine in that child's record;

(b) The Facility shall ensure that each school-age child is afforded quiet time and is provided with a quiet area for doing homework, as needed;

(c) The Facility staff shall provide assistance with homework, when needed; and

(d) If an enrolled child is to go to school directly from the Facility, the Facility shall enter into a written agreement with that child's parent(s) or guardian(s), on or before the first day of enrollment, that specifies the means by which the child shall get to school and the person(s) responsible for accompanying the child to school, and the Facility shall maintain a copy of this agreement in the child's record.

360.6 Each Facility shall comply with all applicable requirements concerning nutrition that are contained elsewhere within this Chapter, in addition to the following special requirements:

(a) The Facility shall provide or serve dinner and a snack to each child scheduled to remain in care overnight, unless the Facility and the child's parent(s) or guardian(s) enter into a written agreement specifying that the child will eat dinner before arriving at the Facility; and

(b) The Facility shall provide breakfast to each child who has been in care overnight at the Facility and is going directly from the Facility to school.

360.7 Each Facility providing twenty-four (24) hour care shall comply, at all times, with the adult/child ratio and staff qualifications requirements contained in this Chapter.

360.8 The Facility shall ensure that staff members are available at all times to attend to the needs of the children, and that at least one (1) adult staff member is awake and within sight and hearing range of the children at all times.

360.9 The Facility shall establish and implement emergency contingency plans, to address both medical and non-medical emergencies at all hours of the day during which care may be provided, including during natural and/or man-made emergencies that necessitate evacuation from the Facility, temporary displacement from the Facility, or confinement to the Facility.

361 TOILETS AND SINKS

361.1 Each Child Development Center serving preschoolers shall provide at least one (1) flush toilet and one (1) sink for every ten (10) occupants of the Facility, including staff.

361.2 Each Center providing out-of-school-time care to school-age children shall provide at least one (1) flush toilet and one (1) sink for every twenty (20) occupants of the Facility, including staff.

361.3 Urinals may be substituted for flush toilets in Centers in a ratio of two (2) urinals to (1) flush toilet, provided that at least two-thirds (2/3) of the required number of flush toilets are maintained.

361.4 Each Center shall provide bathroom facilities for use by adults separately from those for use by children and/or infants.

361.5 If any toilet or sink in a Child Development Facility is too high to be used by one or more enrolled children without assistance, the Facility shall provide a block or step for the child or children's use.

361.6 Each Facility shall provide toilet training chairs and/or seats, at the discretion of the Facility, for use by any child or children who require them. Training chairs shall be emptied promptly and sanitized after each use.

361.7 Each Facility shall provide soap and single-use paper towels in each bathroom.

362 GENERAL FURNISHINGS, EQUIPMENT AND SUPPLIES

362.1 Each Child Development Facility shall provide a variety and sufficient quantities of materials, equipment and supplies for indoor and outdoor activities, consistent with the numbers, ages and needs of the infants, toddlers, preschool and school-age children enrolled.

362.2 Materials, equipment and supplies accessible to children shall be age appropriate, safe, in good repair, clean, and non-toxic, and shall be accessible to and appropriate for children with special needs if the Facility provides care to such children.

362.3 The Facility shall ensure that there are sufficient quantities of materials and equipment to:

(a) Avoid excessive competition among the children and long waits for use of the materials and equipment; and

(b) Provide for a variety of experiences and appeal to the individual interests of the children.

362.4 The Facility shall ensure that materials provided are culturally sensitive, culturally relevant and designed to promote:

(a) Social development;

(b) Communication skills;

(c) Self-help skills;

(d) Large and small muscle development; and

(e) Creative expression.

362.5 Each Facility shall have available a sufficient number of strollers, or carriages with appropriate restraints, for the infants and non-ambulatory children enrolled.

363 GENERAL SAFETY AND MAINTENANCE

363.1 All playthings, equipment, materials, and furnishings provided by a Child Development Facility for use by children shall meet the standards of the Consumer Product Safety Commission and the American Society for Testing and Materials, and shall:

(a) Be sturdy enough that they will not splinter;

(b) Not have sharp points or rough edges;

(c) Have lead-free, non-toxic paint or finishes;

(d) Be easily washable;

(e) Be maintained in good repair; and

(f) Comply with federal standards regarding small toys and objects for use by children.

363.2 In addition to the requirements contained within subsection 363.1, above, all playthings, equipment, materials, and furnishings provided by a Facility for use by children under the age of three (3) years shall:

(a) Be large enough that they cannot be swallowed;

(b) Not have small parts that may loosen and fall off, such as buttons on stuffed animals; and

(c) Comply with federal standards regarding small toys and objects for use by young children.

363.3 All play equipment shall be constructed and installed to ensure its safe use by all enrolled children (*e.g.*, height shall not be excessive for infants and toddlers; the equipment shall not be a potential source of entrapment). There shall be no pinch, crush, or shear points on or underneath such equipment that may be accessible by children.

363.4 The Facility shall remove, repair, or discard all furniture, equipment, and materials that are not usable due to breakage or to hazardous conditions.

363.5 Projectile toys shall be prohibited.

363.6 Tricycles and other riding toys provided by a Facility shall be steerable, appropriate for the ages and sizes of the children enrolled, and shall not contain spokes.

363.7 The Facility shall maintain tricycles and other riding toys in good condition, free of sharp edges or protrusions that may injure children. When not in use, such toys shall be stored in a place where they will not present physical obstacles to the children and staff.

363.8 The Facility shall use only non-toxic arts and crafts materials.

363.9 Electrical outlets which are not in use and are within the reach of children shall be fitted with appropriate child-proof protective receptacle closures that meet the Underwriters Laboratories, Inc., standard for Safety of Receptacle Closures (UL 2255).

363.10 The Facility shall not use space heaters unless it has received explicit approval in writing from an official of the Department of Consumer and Regulatory Affairs and/or the Department of Fire and Emergency Medical Services.

363.11 The Facility shall ensure that no firearms or other weapons are on the Facility premises, with the exception of those in the possession and control of armed security guards authorized to protect the Facility premises.

363.12 The Facility shall maintain adequate storage space for play and teaching equipment, supplies, records, and children's possessions and clothing.

363.13 The Facility shall ensure that all toys and other objects or surfaces that are likely to be mouthed by children are sanitized daily with a bacterial disinfectant solution.

363.14 All cleaning and sanitizing supplies, toxic substances, paint, poisons, aerosol containers, and other items bearing warning labels shall be safely stored by the Facility and shall be kept inaccessible to the children at all times.

363.15 The Facility shall ensure that all appliances, sharp utensils, and other dangerous devices are kept inaccessible to the children at all times. To the extent that any firearm or other weapon may be lawfully permitted on the Facility premises, the Facility shall ensure that all such weapons are kept inaccessible to the children at all times.

363.16 The Facility shall keep protective coverings on all electrical fans, and shall ensure that fans are placed so that they will not easily topple or tip over. The Facility shall ensure that fans are kept out of reach of the children when in use.

363.17 The use of infant walkers, crib gyms, stacked cribs and playpens shall be prohibited.

364 PETS AND ANIMALS

364.1 In the event that a Child Development Facility permits animals on the premises, it shall comply with the following requirements:

(a) The Facility shall adhere to all local ordinances governing the keeping and maintenance of animals;

(b) The Facility shall advise the parent(s) or guardian(s) of the enrolled children of the presence of animals;

(c) The Facility shall ensure that all pets or animals permitted on the premises are in good health, show no evidence of carrying disease, are friendly toward children, and do not present a threat to the health, safety and well-being of children;

(d) The Facility shall maintain all animals or pets in a visibly clean manner;

(e) The Facility shall isolate any pet or animal showing evidence of disease, *e.g.*, diarrhea, skin infection, severe loss of appetite, weight loss, lethargy or any unusual behavior or symptoms. The Facility shall ensure that any animal suspected of being ill is promptly examined by a licensed veterinarian;

(f) The Facility shall maintain, on the Facility premises, proof of current compliance with all applicable vaccination requirements;

(g) The Facility shall prohibit the presence of any animal or pet whose species is a common carrier of rabies, without specific proof that the animal has been vaccinated against that disease;

(h) All pet reptiles shall be kept inaccessible to children;

(i) The Facility shall ensure that no animal, animal litter box, animal pen or cage is permitted in any area where food is stored, prepared or served; and

(j) In the event that an animal bites a child and the child's skin is broken, the Facility shall immediately notify the child's parent(s) or guardian(s) and the Department of Health, and shall report it as an unusual incident pursuant to section 322 of this Chapter.

365 COTS, CRIBS, AND INFANT PLAY

365.1 Each child enrolled in a full-day program at a Child Development Facility child development program shall be provided by the Facility with an individual crib or cot, along with a blanket provided either by the child's family or by the Facility.

365.2 The Facility shall place cribs and cots at least two (2) feet apart from each other, and at least two (2) feet from all windows and radiators, when in use. This space shall be measured on all sides of each crib or cot.

365.3 The Facility shall label each crib or cot with the name of the child to whom it is assigned.

365.4 The Facility may only use cribs and cots that meet the standards established by the Consumer Product Safety Commission.

365.5 The Facility shall ensure that children do not share bedding.

365.6 The Facility shall provide each crib with a firm, fitted mattress, covered with a fitted sheet.

365.7 All cots shall have coverings that are easy to clean and nonabsorbent.

365.8 The Facility shall ensure that no child sleeps on a bare, uncovered surface.

365.9 The Facility shall ensure that seasonally appropriate coverings, such as sheets or blankets that are sufficient to maintain adequate warmth, are available and provided to children as needed.

365.10 The Facility shall ensure that pillows are not provided to or used by infants.

365.11 The Facility shall ensure that cribs, cots and bedding are kept clean and sanitary at all times.

365.12 The Facility shall ensure that a Facility staff member removes each infant from his or her crib for all feedings, and that no infant is fed by means of a propped bottle.

365.13 The Facility shall ensure that each infant is allowed to safely and comfortably sit, crawl, toddle, or walk, and to play according to his or her stage of development, in a designated play space apart from the infant's sleeping quarters, during each day.

365.14 The Facility shall sufficiently separate cot and crib areas from play space so as to prevent access to sleeping areas by children at play.

366 ROOFTOP PLAY SPACE

366.1 If a Child Development Facility chooses to utilize a rooftop play space, the Facility shall enclose the rooftop play space with a sturdy fence at least six (6) feet high and designed to discourage climbing.

366.2 The Facility shall provide a fire escape, which leads from the rooftop play space to an open space at the ground level of the Facility premises, and for which the Facility has received written approval from the Department of Consumer and Regulatory Affairs or the Department of Fire and Emergency Medical Services.

366.3 Before a Facility may utilize a rooftop play space, the Facility shall obtain written certification from a licensed structural engineer that the additional load presented by the children, staff, and play equipment on the roof is within the load capacity of the building structure.

366.4 Before a Facility may utilize a rooftop play space, the Facility shall obtain written certification from a licensed industrial or civil engineer of the safety of the fence, and shall submit this certification to the Director.

366.5 Each Facility utilizing a rooftop play space shall, at least annually: (1) obtain an annual inspection of the fence around the play space by a licensed industrial or civil engineer; (2) obtain a written certification from the inspecting engineer of the safety of the fence; and (3) submit this certification to the Director.

366.6 Each Facility utilizing a rooftop play space shall undergo and pass an annual safety inspection of the space by the Department of Fire and Emergency Medical Services.

366.7 Each Facility utilizing a rooftop play space shall post a copy of each current certification and/or safety report next to the Facility's license, in a conspicuous location on the Facility premises.

367 SAFETY REQUIREMENTS FOR OUTDOOR PLAY SPACE AND EQUIPMENT IN ENCLOSED YARDS ON FACILITY PREMISES

367.1 Each Child Development Facility utilizing an outdoor play space on the Facility premises shall enclose the outdoor play space with a fence or natural barrier, which shall be at least four (4) feet high, with a space no larger than 3-1/2 inches between its bottom edge and the ground, and designed to discourage climbing.

367.2 The Facility shall provide at least two exits from each outdoor play space; at least one of these exits shall be remote from the Facility building(s).

367.3 The Facility shall ensure that all outdoor gates have positive self-latching closure mechanisms, that shall be at least four and one-half (4-1/2) feet off the ground and/or constructed in a manner so that they cannot be opened by a preschool-age child.

367.4 The Facility shall ensure that the design, construction and installation of all outdoor play equipment is consistent with the guidelines published by the U.S. Consumer Product Safety Commission in its "Handbook for Public Playground Safety" and with the standards established by the American Society for Testing and Materials.

367.5 The Center Director, Caregiver, or designated Facility staff shall conduct a daily inspection of each outdoor play space. The inspection shall include, at a minimum, an inspection of the space itself, and of each piece of equipment, for obvious hazards, and the removal of all trash, debris, broken glass and other foreign or hazardous materials.

367.6 Each Facility serving both preschool and school-age children shall separate the outdoor play spaces used by infants, toddlers, and preschool children from the play spaces used by school-age children. The separation shall be accomplished so as not to limit the activities of either age group.

367.7 The Facility shall ensure that all surface areas beneath and in the fall zones of climbing equipment, slides, swings, and similar equipment are covered in resilient material that is designed to absorb falls.

367.8 The Facility shall ensure that all outdoor equipment is securely anchored and installed so as to prevent tipping or collapsing.

367.9 The Facility shall ensure that all outdoor play equipment is free of pinch, crush or shear points on all surfaces that are or may be accessible to children.

367.10 The Facility shall provide only swing seats constructed of durable, lightweight, relatively pliable material.

367.11 The Facility shall not provide trampolines, with the exception of small trampolines that have jumping surfaces no higher than twelve (12) inches off the ground. If a Facility chooses to provide such trampolines, the Facility shall ensure that all trampoline play is closely supervised and that children do not have unsupervised access to any trampoline.

367.12 The Facility shall maintain all outdoor sandboxes and play areas containing sand in a safe and sanitary condition.

367.13 In addition to the daily inspections required under subsection 367.5, the Center Director, Caregiver, or designated Facility staff shall thoroughly inspect each piece of playground equipment, at least monthly, for the following hazards:

(a) Visible cracking, bending, warping, rusting or breaking;

(b) Deformation of open hooks, shackles, rings, links, and the like;

(c) Worn swing hangers and chains;

(d) Missing, damaged or loose swing seats;

(e) Broken supports or anchors;

(f) Exposed, cracked or loose cement support footings;

(g) Exposed tubing ends that require plugs or cap covers;

(h) Accessible sharp edges or points;

(i) Protruding bolt ends that require caps or covers;

(j) Loose bolts, nuts or screws that require tightening;

(k) Splintered, cracked or otherwise deteriorating wood;

(l) Moving parts in need of lubrication;

(m) Worn bearings or other worn mechanical parts;

(n) Broken or missing rails, steps, rungs or seats;

(o) Worn or scattered surfacing materials;

(p) Exposed hard surfaces, especially under swings and slides;

(q) Chipped and/or peeling paint;

(r) Pinch or crush points; and

(s) Exposed mechanisms, junctures, and moving components.

367.14 The Facility shall record each monthly inspection of playground equipment, shall maintain this record, and shall present it to the Director upon request.

367.15 If any hazard listed in this section is noted or observed, the Facility shall immediately correct the hazardous condition or shall remove the piece of equipment from use until it is corrected.

367.16 The Facility shall ensure that no lawn mowers, hedge clippers, shears and other similar items are used or stored unlocked in any outdoor play space when children are present.

368 SWIMMING AND WATER SAFETY

368.1 Before an enrolled child may be permitted to swim or otherwise participate in any activity taking place in water two (2) or more feet in depth, the Child Development Facility shall obtain written permission from the child's parent(s) or guardian(s). The written permission shall be signed and dated, and shall include the following:

(a) The child's name;

(b) A statement indicating whether the child is a swimmer or a non-swimmer; and

(c) A statement indicating that the parent(s) or guardian(s) grants permission for the child to participate in water activities.

368.2 If a Facility premises contains a swimming pool or other body of water two (2) or more feet in depth, the Facility shall enclose the pool or body of water behind a secure fence of at least four (4) feet in height, and shall ensure that the area containing the pool or body of water is inaccessible to children at all times unless qualified adults are present and supervising the children.

368.3 If a Facility chooses to utilize one or more wading pools, the Facility shall ensure that such pools are filtered, emptied, and drained daily, and that such pools are stored in a location that is inaccessible to the enrolled children.

368.4 If a Facility chooses to engage in a field trip to a swimming site, such as a public or private swimming pool, lake, or river, Facility staff shall accompany and supervise the children at all times, even when a lifeguard is present.

368.5 The Facility shall ensure that any swimming site utilized by the Facility that is at a location other than within the Facility premises is approved and supervised by the appropriate local authorities.

368.6 At least one adult certified in Emergency Water Safety and First Aid and CPR for children shall be in attendance at all times when children are swimming.

368.7 The Facility shall ensure that all activities of children taking place in water two (2) or more feet in depth are supervised by at least one adult currently certified as a lifeguard or water safety instructor by the American Red Cross or by an equivalent water safety instruction and testing program.

368.8 In addition to the requirements contained in this section, the Facility shall comply with the adult/child ratios and requirements for supervision of children contained in section 343 of this Chapter.

369 EMERGENCY PREPAREDNESS AND FIRST AID

369.1 Each Child Development Facility shall have, at all times, on the premises and readily available to administer aid, at least two (2) staff members who possess current certification in First Aid and CPR for children, and the prevention, recognition and management of communicable diseases, or who have satisfactorily completed courses, approved by the Director, in all of the above disciplines; except that in a Child Development Home wherein there are two (2) or fewer Caregivers, each Caregiver and his or her substitute shall possess the above-mentioned qualifications.

369.2 Each Facility shall obtain and shall maintain, on the Facility premises, a sufficient quantity of first aid supplies to meet the Facility's reasonably expected needs, based on the size of the Facility, the ages and developmental abilities of the enrolled children, and the Facility's program of activities. The Facility shall maintain these supplies in a designated location that is readily available to staff and inaccessible to the children.

369.3 Each Facility shall provide the following items among its first-aid supplies:

(a) One (1) roll of one-half inch (1/2") non-allergenic adhesive tape;

(b) One (1) roll of two-inch (2") gauze roller bandage;

(c) Ten (10) individually wrapped sterile gauze squares in assorted sizes;

(d) Twenty-five (25) adhesive (*e.g.*, band-aid) compresses in assorted sizes;

(e) Three (3) clean cotton towels or sheeting pieces, approximately twenty-four by thirty-six inches (24" x 36") each;

(f) One (1) pair of scissors;

(g) Safety pins in assorted sizes;

(h) One (1) flashlight;

(i) One (1) thermometer;

(j) One (1) measuring tablespoon or dosing spoon;

(k) One (1) pair of tweezers;

(l) One-third cup (1/3 c.) of powdered milk for dental first aid (for mixing to make a liquid solution);

(m) A current First Aid text published by the American Academy of Pediatrics or the American Red Cross, or an equivalent community first aid guide;

(n) The telephone number(s) of the local Poison Control Center;

(o) Rubbing alcohol and alcohol swabs;

(p) Cotton balls;

(q) One (1) ice pack or gel pack;

(r) Liquid sanitizer;

(s) Disposable, nonabsorbent gloves;

(t) All items needed for disposal of blood-borne pathogens;

(u) Written Facility protocol for standard precautions and treatment of injuries; and

(v) One-way valves for infants (if served), young children and adults.

369.4 The Facility shall inspect and take inventory of its first-aid supplies at least weekly, and shall:

(a) Remove and replace sterile supplies if the package has been opened or damaged, or if the expiration date on the package has been reached; and

(b) Replace all supplies as they are used up or if they become damaged.

369.5 Each Facility shall maintain at least one portable and complete first-aid kit, and shall ensure that such a kit is taken along by Facility staff on each outing, and when children under the care and supervision of the Facility are being transported.

369.6 The Facility shall ensure that at least one person currently certified in First Aid and CPR for children is present whenever one or more children are taken on an outing or otherwise transported away from the Facility.

369.7 Each Facility shall conduct practice evacuation drills, in accordance with guidelines and/or regulations adopted by the Department of Fire and Emergency Medical Services. The drills shall include all groups of children and all Facility staff, and shall be conducted at least every two (2) months, at varying times during the program day. The Facility shall document, on a form approved by the Director, the date, time and duration of each such evacuation drill, the number of children and staff participating, and the weather conditions.

369.8 Each Facility shall develop and implement specific procedures for the safe and prompt evacuation of infants, toddlers and non-ambulatory children.

369.9 Each Facility shall develop written emergency contingency plans and procedures to be followed in case of fire, natural or man-made disaster, loss of power, heat or water service, unsafe indoor temperatures, and any other dangerous environmental condition. These shall include procedures for evacuation as well as for sheltering in place, as deemed appropriate or as directed by authorized government officials.

369.10 Each Facility shall provide, in each Facility building, at least one working, non-pay, stationary telephone accessible to staff.

370 HANDLING DIAPERS, TRAINING PANTS AND TOYS

370.1 Each Child Development Facility shall locate its diaper-changing area so that it is in close proximity to a source of warm running water and soap, and so that it is not in or near the Facility's kitchen and eating areas.

370.2 Each Facility shall store soiled diapers and training pants in designated and labeled containers, separate from all other waste, including soiled clothes and linens. The Facility shall provide a washable, plastic lined, tightly covered receptacle, which can be operated by a foot pedal, within arm's reach of each diaper changing table, for the disposal of soiled diapers.

370.3 No Facility may use cloth diapers for any child unless it has obtained a written statement, with supporting documentation, from a particular child's parent(s) or guardian(s) that cloth diapers are required by the special medical circumstances of that child.

370.4 The Facility shall provide one or more diaper-changing areas that have surfaces made of non-porous material.

370.5 The Facility shall ensure that, for each diaper-changing area, the diaper-changing surface is cleaned and sanitized with a bleach solution or other appropriate germicide after each diaper change.

370.6 The Facility shall ensure that the bleach solution or germicide used for cleaning and sanitizing the diaper-changing surface is kept inaccessible to the enrolled children at all times.

370.7 The Facility shall provide an area for the storage of clean diapers and training pants which is clean and designated exclusively for that use, with the exception that the clean diaper and training pants storage area and the storage area for enrolled children's clean clothes may be combined.

370.8 The Facility shall store and/or dispose of soiled diapers, diapering materials and training pants as follows:

(a) Cloth diapers, training pants or clothing that are soiled with fecal matter and are to be sent home with a child shall be rinsed at the Facility at a location where food preparation does not occur, or shall be placed directly into a plastic container that is sealed tightly, and shall be stored away from the rest of the child's belongings and out of reach of all children, until sent home with the child at the end of the day;

(b) Cloth diapers, training pants or clothing that are soiled with fecal matter and are to be laundered by the Facility shall be placed in a non-porous covered container, containing an appropriate germicidal solution, until laundered;

(c) Cloth diapers, training pants or clothing that are soiled with fecal matter and are to be either laundered by the Facility or sent home with a child for laundering may be held for laundering no longer than one day;

(d) Soiled disposable diapers and training pants shall be placed in a plastic-lined, covered container that shall be emptied, cleaned, and sanitized with an appropriate germicidal agent at least daily;

(e) Soiled disposable diapers and training pants shall be discarded at least daily;

(f) The Facility shall ensure that only disposable diapering materials, including wipes and changing pads, are used, except as provided further herein, and that each such disposable item is discarded, after one use, in the container used for the discard of soiled disposable diapers described in subsection (d);

(g) In the case of emergency, or if special medical circumstances are documented in accordance with this section, a Facility may use washable cloth diapering materials. If cloth materials are used, the Facility shall ensure that each such material is used only once and then stored in the manner required for cloth diapers described in this section; and

(h) The Facility shall ensure that all staff wear disposable gloves when changing diapers and training pants or when assisting children to remove soiled clothing, and that a new pair of gloves is worn for the diapering of or assistance with each successive child.

370.9 The Facility shall ensure that any toy that is mouthed is promptly removed from the play area, sanitized with an appropriate germicide, and air dried, before it is returned to the play area.

370.10 The Facility shall ensure that any toy that becomes soiled with blood, stool, urine or vomit is immediately removed and sanitized with an appropriate germicide.

371 HAND WASHING PRACTICES

371.1 Each Child Development Facility shall establish and implement a written policy regarding hand washing, which addresses the following areas:

(a) When hand washing is required for staff and for children;

(b) Specific hand washing procedures; and

(c) Ongoing monitoring by the Center Director or Caregiver to assure that proper hand washing procedures are followed.

371.2 Each Facility shall ensure that all staff wash their hands at the following times:

(a) Before eating, drinking, or handling food;

(b) Before handling clean utensils or equipment;

(c) Before and after assisting or training a child in feeding or in toileting;

(d) After personal toileting;

(e) After contact with body secretions, *e.g.*, blood, urine, stool, mucus, saliva, or drainage from wounds;

(f) After handling soiled diapers, clothes, equipment, menstrual pads or tampons;

(g) After removing disposable gloves; and

(h) After caring for a sick child.

371.3 Each Facility shall provide liquid soap, and cloth towels, disposable towels, or an air hand dryer, at each hand washing area at all times.

371.4 The Facility shall ensure that each child washes his or her hands:

(a) Before the child eats;

(b) Before the child participates in food-related activities; and

(c) After the child's toileting.

372 FOOD AND NUTRITION REQUIREMENTS

372.1 Each Child Development Facility shall ensure that its planned menus, and the foods that are actually served by the Facility, are: varied, suitable to the ages and developmental levels of the children, and consistent with the meal pattern requirements specified by the United States Department of Agriculture's Child and Adult Care Food Program.

372.2 Each Child Development Center shall have at least one staff member present at all times when meals are being prepared or served who is certified as a Food Protection Manager in accordance with the District of Columbia Food Code, Title 25 of the District of Columbia Municipal Regulations. In order to qualify under this section, the staff member must have a valid and current certification, including photographic identification.

372.3 Each Child Development Facility shall ensure that food is protected and stored as required by the District of Columbia Food Code, Title 25 of the District of Columbia Municipal Regulations.

372.4 Each Facility shall request, and shall obtain if applicable, all relevant information regarding dietary restrictions and food allergies for each enrolled child, upon the child's admission to the Facility, and the Facility shall record this information in the child's file.

372.5 At least annually, the Facility shall request, and shall obtain if applicable, updated information regarding each enrolled child's dietary restrictions and food allergies.

372.6 The Facility shall ensure that all staff responsible for food preparation and distribution are informed, in writing, of any dietary restrictions, food allergies, or other special dietary requirements that concern any children enrolled at the Facility.

372.7 If a Facility serves food provided by the parent(s) or guardian(s) of the enrolled children, the Facility shall establish and implement written policies and procedures to be followed if the food provided by the parent(s) or guardian(s) does not meet the requirements specified in this section.

372.8 Each Facility shall maintain a one (1) day supply of perishables and a three (3) day supply of staples at all times.

372.9 The Facility shall ensure that powdered milk or reconstituted evaporated milk is not served as a substitute for fluid milk for drinking. Powdered milk or reconstituted evaporated milk may be used for cooking.

372.10 The Facility shall ensure that staff responsibilities concerning food preparation and service do not reduce the adult/child ratios for staff actively supervising children below the levels specified in this Chapter or interfere with the implementation of the Facility's program of activities.

372.11 The Facility shall ensure that no person is involved in food preparation or service, or otherwise works in the food preparation and/or service area, if that person shows signs or symptoms of illness, including vomiting, diarrhea, or uncovered infectious skin sores, or if that person is actually or likely infected with any bacterium or virus that can be carried in food.

372.12 A Facility may only serve a special therapeutic diet to a child upon the written instruction of the child's licensed health care practitioner.

373 MENUS, MEALS AND SERVICE

373.1 Each Child Development Facility shall ensure that its daily menus conform to the current United States Department of Agriculture dietary recommendations for sugar, salt and fat intake.

373.2 Each Facility shall plan and post menus for all foods served, including snacks, and shall modify the menus as necessary to reflect foods actually served. The Facility shall maintain the menus on file at the Facility premises for at least six (6) months.

373.3 The Facility shall ensure that appropriately timed meals and snacks that meet the nutritional requirements of the child are served to each child according to the following schedule, based on the number of hours a child is present at the Facility:

(a) Two (2) to four (4) hours, child receives one (1) snack;

(b) Four (4) to six (6) hours, child receives one (1) meal and one (1) snack;

(c) Seven (7) to eleven (11) hours, child receives two (2) meals and one (1) snack or two (2) snacks and one (1) meal, depending on the time of arrival of the child; and

(d) Twelve (12) hours or more, child receives three (3) meals and two (2) snacks.

374 REQUIREMENTS FOR INFANT FORMULA AND FEEDING

374.1 Each Child Development Facility shall comply with the following requirements concerning infant formula and feeding:

(a) Each feeding bottle for an infant or toddler shall be labeled with the name of the child to whom it belongs;

(b) Each bottle of milk or formula shall be labeled with the date of preparation, and refrigerated at thirty-five to forty degrees Fahrenheit (35º F - 40º F);

(c) Each open container of ready-to-feed or concentrated formula shall be used for only one child, and shall be labeled with that child's first and last name and the date on which the container is opened;

(d) All infant formula given to a child shall be prepared according to written instructions obtained from the parent(s) or guardian(s) of that child or from the child's licensed health care practitioner;

(e) All bottles and formula preparation equipment shall be washed with hot water and detergent;

(f) Each bottle of reconstituted concentrated or powdered formula shall be refrigerated immediately after its preparation, or immediately upon its arrival at the Facility if it is prepared and brought to the Facility by the child's parent or guardian, and may be held for feeding for no longer than twenty-four (24) hours;

(g) Each bottle of commercially prepared ready-to-feed formula shall be refrigerated promptly after it is opened;

(h) All unused formula shall be discarded;

(i) Each bottle or container of breast milk provided for a child by the parent or guardian of that child shall be labeled with the child's first and last name and the date of receipt, and refrigerated immediately upon its arrival at the Facility;

(j) Fluid breast milk may be held for feeding for no more than twenty-four (24) hours, and frozen breast milk may be held in a frozen state for no more than two (2) months;

(k) The Facility shall provide, or require the parent(s) or guardian(s) of each infant to provide, a sufficient supply of commercially prepared formula so that the child will be adequately fed in case of emergency;

(l) Each child who is too young or otherwise developmentally unable to use a feeding chair or other appropriate seating apparatus shall be held while being fed;

(m) Each child who is too young, too small, or otherwise developmentally unable to hold his or her bottle while feeding shall be held while being fed;

(n) No child may be placed in a crib with a bottle for feeding, nor may a bottle be propped up to feed a child; and

(o) The Facility shall provide a comfortable and secluded location on-site in which mothers can breast-feed their children.

375 REQUIREMENTS FOR INFANT SOLID FOOD

375.1 Each Child Development Facility shall comply with the following requirements concerning infant solid food:

(a) Each solid food provided to an infant shall be served according to written instructions, which specify the amount(s) and type(s) of food and feeding times, that are requested and obtained by the Facility from the parent(s) or guardian(s) of that child or from the child's licensed health care practitioner.

(b) Each container of infant food that is provided to the Facility by the parent(s) or guardian(s) of a child for feeding to that child shall be labeled with the child's first and last name and the date of receipt;

(c) Each container of infant food shall be refrigerated immediately upon its arrival at the Facility, with the exception of unopened containers of commercially prepared bottled or canned food that may be stored at room temperature until opened;

(d) The uneaten portion of any container of infant food shall be immediately refrigerated, and may not be held for further consumption for longer than two (2) days; and

(e) If the Facility fails to obtain adequate written feeding instructions from the parent(s) or guardian(s) of a particular child, the Facility shall serve the infant breast milk, formula and/or food in sufficient amounts to meet the current Recommended Dietary Allowances ("RDA") or Dietary Reference Intakes ("DRI") as specified by the Food and Nutrition Board of the Institute of Medicine, National Academy of Sciences.

376 REQUIREMENTS FOR INFANT SLEEP AND PLAY POSITIONS (PRECAUTIONS AGAINST SIDS)

376.1 Each Facility that provides care for one or more infants shall comply with the following requirements with regard to infant sleep and play positions:

(a) Unless otherwise ordered by a physician or other qualified health care practitioner, each infant shall be placed on his or her back for sleeping;

(b) Each infant shall be placed on his or her stomach for some part of the time during which he or she is awake and observed;

(c) No positioning device shall be used to restrict the movement of an infant unless such device is ordered by a physician or other qualified health care practitioner;

(d) No soft materials or objects, such as pillows, quilts, comforters, sheepskins, and stuffed toys, shall be permitted in an infant's sleep environment;

(e) If bumper pads are used in an infant’s crib, they shall be thin, firm, well-secured and not pillow-like, and they shall not be placed under a sleeping infant; and

(f) No infant shall be put to sleep on a sofa, soft mattress, waterbed, chair, cushion or other soft surface.

376.2 Each Facility shall comply with the latest recommendations of the American Academy of Pediatrics with regard to reducing the risk of Sudden Infant Death Syndrome to the extent, if any, that such recommendations, made after the effective date of these rules, differ in significant part from the requirements contained in subsection 376.1.

377 ADMINISTRATION OF MEDICATION

377.1 No Child Development Facility may provide medicine or treatment, with the exception of emergency first aid, to any child, unless the Facility has obtained a written medical order or prescription from the child’s licensed health care practitioner and the written consent of the child’s parent(s) or guardian(s).

377.2 The Facility shall ensure that each medication ordered or prescribed is maintained by the Facility in its original container, and clearly labeled with the name of the child for whom it has been ordered or prescribed, the name of the medicine, the dosage, the method of administration, and the name and telephone number of the child’s licensed health care practitioner.

377.3 The Facility may not administer any medication for any period beyond the date indicated on the medical order or prescription.

377.4 The Facility shall maintain a medication log, on a form approved by the Director, on which the Facility shall record the date, time of day, medication, medication dosage, method of administration, and the name of the person administering the medication, each time any medication is administered to a child.

377.5 The Facility shall maintain all records pertaining to the administration of each medication to each child on file for a period of at least three (3) years after the administration of said medication, including the written instructions and authorization of the licensed health care practitioner, the written instructions and authorization of the parent(s) or guardian(s), and the medication log entries completed by the Facility. The Facility shall make these records available for review by the Director upon request.

377.6 The Facility shall ensure that each medication requiring refrigeration is maintained at a temperature between thirty-five and forty degrees Fahrenheit (35º F - 40º F), and that all refrigerated medications are kept in a separate storage container within the Facility's refrigerator so as to prevent potential cross-contamination with foods.

377.7 For each child for whom medication is administered at the Facility, the Facility shall obtain from the parent or guardian of the child, in writing, each day, a statement indicating when the last dose was administered prior to the child's arrival at the Facility, and the Facility shall add this information to the medication log.

377.8 In case of an emergency involving actual or potential poisoning, the Facility may administer emergency treatment without previous written instruction, as directed by an authorized poison control center;

377.9 The Facility may administer nonprescription topical ointments, including sun block, petroleum jelly, and diaper ointment, to a child, upon obtaining the permission of the child's parent(s) or guardian(s).

377.10 The Facility shall maintain each nonprescription topical ointment in its original container, and shall administer each such ointment in accordance with the manufacturer's instructions.

377.11 A Facility that provides out-of-school-time care to school-age children may permit a school-age child to administer his or her own medication, under the direct supervision of a staff member, upon receipt of written authorization for the child's self-administration of the medication from the child's parent(s) or guardian(s).

377.12 A Facility that provides out-of-school-time care to school-age children may permit a school-age child with asthma to carry his or her own inhaler and to self-administer medication from it as needed, and may permit a child with a chronic illness or disability to self-test for the appropriate medical indicator(s) and to self-administer medication as needed, upon receipt of written authorization from the child's licensed health care practitioner and written consent from the child's parent(s) or guardian(s). In each such case, the Facility shall ensure that all staff members are informed of the fact that the particular child is permitted to self-test and/or to self-administer his or her medication.

378 TRANSPORTATION REQUIREMENTS

378.1 Each Child Development Facility that owns, operates or maintains one or more motor vehicles used for transporting children shall comply with all applicable federal and District of Columbia laws and regulations governing the maintenance and operation of motor vehicles and the transportation of children.

378.2 Each Facility that enters into a contract with another entity for the provision of transportation services shall obtain a signed attestation from the contractor entity that the transportation service complies with the requirements of this section and with all other applicable laws and regulations pertaining to the provision of transportation services.

378.3 Each Facility shall establish and implement policies and procedures intended to ensure the safe transportation of children, including policies and procedures for the training and monitoring of all staff responsible for the transportation of enrolled children.

378.4 The Facility's transportation policies and procedures shall address alternative transportation means to be employed if the Facility's primary vehicle breaks down or is otherwise unavailable for use.

378.5 Before any child may be transported while under the care of the Facility, the Facility shall obtain written and signed permission from the child's parent(s) or guardian(s).

378.6 Each Facility that owns, operates or maintains one or more motor vehicles used for transporting children shall label each such vehicle with the name and phone number of the Facility.

378.7 Each Facility that owns, operates or maintains one or more motor vehicles used for transporting children shall maintain proof of current motor vehicle insurance coverage for each such vehicle, both on the Facility premises and inside the vehicle.

378.8 Each Facility that owns, operates or maintains one or more motor vehicles used for transporting children shall ensure that only licensed drivers who are covered by the Facility's insurance policy operate any such vehicle when transporting enrolled children.

378.9 Each Facility shall immediately notify the Director of any traffic accident involving children being transported while under the care of the Facility. The Facility shall also submit a written report to the Director, on a form approved by him or her, within twenty-four (24) hours of the accident, and shall include a copy of the police report regarding the accident, if available. Facilities that participate in the Child Care Subsidy Program shall also notify the Department of Human Services, as required by subsections 322.1(f) and 322.2 of this Chapter.

378.10 Each Facility that owns, operates or maintains one or more motor vehicles used for transporting children shall ensure that each such vehicle is maintained in a clean and mechanically safe condition, as verified by a current inspection sticker from the District of Columbia Department of Motor Vehicles or the equivalent agency in another state and by the Facility's own maintenance records.

378.11 Each Child Development Facility that owns, operates or maintains one or more motor vehicles used for transporting children shall maintain inspection and repair records for each such vehicle on file for at least twelve (12) months from the date of each inspection or repair. A person or entity that operates multiple Child Development Facilities may maintain all such records in a single administrative office.

378.12 The Facility shall ensure that no staff member who has been convicted of Driving While Intoxicated (DWI), Driving Under the Influence of Alcohol or Drugs (DUI), or the equivalent, within the previous three (3) years, transports by motor vehicle any children enrolled at the Facility. The Facility shall also adopt and implement a policy prohibiting any other person, including a parent, guardian, and/or volunteer, who has been convicted of Driving While Intoxicated (DWI), Driving Under the Influence of Alcohol or Drugs (DUI), or the equivalent, within the previous three (3) years, from transporting by motor vehicle children enrolled at the facility, and shall advise all parents, guardians, and volunteers of this policy in writing.

378.13 If the primary driver identified by a Facility becomes unavailable, the Facility shall identify and utilize a substitute driver who meets the requirements of this section.

378.14 The Facility shall ensure that no driver smokes, wears headphones, uses a cellular phone or wears earphones while transporting enrolled children.

378.15 The Facility shall ensure that each child transported in a personal motor vehicle while under the care of the Facility is properly restrained in an approved child safety restraint system and/or a seat belt, as required by applicable District of Columbia laws and regulations. The Facility shall also ensure that: each child under three (3) years of age is properly restrained in a child restraint seat; each child under eight (8) years of age is properly seated in an installed infant, convertible (toddler) or booster child safety seat, according to the manufacturer's instructions; and each booster seat is used with both lap and shoulder belts.

378.16 The Facility shall ensure that no child or staff member stands or sits on the floor of a vehicle while the vehicle is in motion, and that no child is held on another person's lap while the vehicle is in motion.

378.17 The Facility shall ensure that all vehicle doors remain locked at all times except when staff and/or children are boarding or departing the vehicle.

378.18 The Facility shall ensure that no child is left unattended in a vehicle at any time.

378.19 The Facility shall maintain a safe vehicle loading and unloading area for children on or adjacent to the Facility premises.

378.20 The Facility shall ensure that identification is securely attached to the person of each child participating on a field trip, and that the identification contains the Facility name, address, telephone number, and emergency contact telephone number if applicable.

378.21 The Facility shall ensure that the following items are present in each vehicle when transporting children on field trips or other routine trips:

(a) A first-aid kit that meets requirements specified in section 369 of this Chapter;

(b) A working fire extinguisher;

(c) A supply of drinking water sufficient for all of the children in the vehicle;

(d) A minimum of two (2) large clean towels or blankets;

(e) Emergency contact information, and telephone numbers of the parent(s) or guardian(s), for each child in the vehicle;

(f) A copy of the signed Emergency Medical Treatment Authorization form, as required by section 324 of this Chapter, for each child in the vehicle;

(g) A cellular phone or a two-way radio;

(h) A working flashlight; and

(i) In the case of buses, vans, or other large vehicles, a footstool or equivalent aid sufficient to enable small children to safely board and disembark from the vehicle.

378.22 The Facility shall ensure that at least one staff member trained and currently certified in First Aid and CPR for children is present in each vehicle when children are being transported.

378.23 When a child with special needs is being transported in a wheelchair while under the care of a Child Development Facility, the Facility shall comply with the following additional safety requirements:

(a) The vehicle shall be equipped with a working wheelchair lift;

(b) The child's wheelchair shall be secured in the motor vehicle, using a minimum of four (4) anchorages attached to the floor of the vehicle, and four (4) securing devices, such as straps or webbing that have buckles and fasteners, which attach the wheelchair to the anchorages;

(c) The child shall be secured in the wheelchair by means of a wheelchair restraint that contains a combination of pelvic and upper body belts; and

(d) The child's wheelchair shall be placed in a position in the vehicle that neither prevents access to the child nor passage to the front and rear of the motor vehicle.

379 CHILDREN WITH SPECIAL NEEDS

379.1 Each Child Development Facility that serves one or more children with special needs, including infants, toddlers, preschool-age children, and/or school-age children, shall comply with the specific additional requirements of this section.

379.2 Upon the admission of a child with a special need, or upon the identification of a special need in an enrolled child, the Facility shall promptly obtain informed written consent, from the parent(s) or guardian(s) of the child, for the implementation of any treatment or protocol ordered by the child's licensed health care practitioner.

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379.3 The Facility shall ensure that the care of each child with special needs who is less than thirty-six (36) months of age is consistent with that child's Individual Family Services Plan (IFSP), and that the care of each child who is thirty-six (36) months of age or over is consistent with that child's Individual Education Plan (IEP). The Facility shall maintain a copy of the child's current IFSP or IEP on file at all times.

379.4 The Facility shall maintain a written individualized care plan, in accordance with the child's IFSP or IEP, for each enrolled child with special needs. This plan shall address the following areas, as needed and appropriate for the child:

(a) Child development services to be provided by the Facility;

(b) Other services to be provided by or at the Facility;

(c) Special training or qualifications required of one or more staff members to properly care for the child in light of his or her special needs;

(d) Nutrition and feeding, including feeding schedule and special training or qualifications required of staff members who may feed the child;

(e) Administration of medication;

(f) Use and maintenance of medical equipment and/or adaptive devices;

(g) Toileting and personal hygiene;

(h) Procedures and instructions for medical emergencies;

(i) Procedures for other emergencies, including participation in emergency evacuation drills; and

(j) Transportation requirements.

379.5 Before disclosing any information concerning the child to any person, including a licensed health care practitioner, who is not employed by the Facility, the Facility shall obtain written permission from the child's parent(s) or guardian(s).

379.6 The Facility shall provide each child with special needs with:

(a) Developmentally appropriate toys and materials;

(b) Developmentally appropriate play equipment which meets the requirements of the Americans with Disabilities Act;

(c) Appropriate assistance and attention from staff members; and

(d) Reasonable accommodations to enable the child to participate in the activities of the Facility, including field trips.

379.7 If health services or therapeutic services are provided at the Facility, the Facility shall ensure that these services are provided in accordance with the child's IFSP or IEP and by practitioners who are licensed or otherwise authorized by law to provide the applicable services in the District of Columbia.

399 DEFINITIONS

For the purposes of this Chapter, the term:

"Act" means the Child Development Facilities Regulation Act of 1998, effective April 13, 1999, D.C. Law 12-215, D.C. Official Code §§ 7-2031 *et seq*.

"Abuse" means the physical or mental injury of a child by a parent, guardian or custodian, under circumstances that indicate that the child's health or welfare is significantly harmed or at risk of being significantly harmed. Abuse includes sexual abuse of a child, whether or not physical injuries are sustained.

"Adult" means a person who is eighteen (18) years of age or older.

"Americans with Disabilities Act" or "ADA" means the law that requires that persons with disabilities not be denied public accommodations that are designed to afford them the opportunity to participate in programs or activities that are not separate or different. (P.L. 101-336; 104 Stat. 327; 42 U.S.C. 12101 *et seq*.) .

“Associate Caregiver” means an individual who provides care in an Expanded Child Development Home and who is subordinate to the Primary Caregiver; this person need not reside in the dwelling where the Facility is located.

"CDA" means Child Development Associate, a credential obtained under the award system of the Council for Professional Recognition.

“CPR” means cardiopulmonary resuscitation.

“Care by a Related Person” means care of a child by that child’s parent, step-parent, grandparent, brother, sister, step-brother, step-sister, uncle, or aunt, said relationship having been established by blood, marriage, or adoption, or by that child’s legal guardian.

"Caregiver" means an individual who is in charge of, and responsible for the direct care, supervision, and guidance of, children in a Child Development Home or Expanded Child Development Home.

"Center Director" means a Child Development Center staff member who is in charge of the day-to-day operations of the Center.

“Change in Ownership” means a transfer of controlling legal or equitable interest and authority resulting from a sale or merger.

“Child” or “Children” means an individual or individuals from birth to fifteen (15) years of age, except when “infant/s” and/or “toddler/s” are specified within the same provision, in which case “child” or “children” means an individual or individuals from two (2) to fifteen (15) years of age.

“Child Development Center” or “Center" means a Child Development Facility located in premises other than a dwelling occupied by the operator of the Facility.

“Child Development Facility” or “Facility” means a center, home, or other structure that provides care and other services, supervision and guidance for children, infants, and toddlers on a regular basis, regardless of its designated name. "Child Development Facility" includes “Child Development Home,” “Expanded Child Development Home,” and “Child Development Center.” “Child Development Facility” does not include a public or private elementary or secondary school engaged in legally required educational and related functions.

“Child Development Home” means a Child Development Facility located in a private dwelling occupied by the operator of the Facility. “Child Development Home” also includes those Facilities classified as “Expanded Child Development Home”.

"Department", unless otherwise specified, means the Department of Health or its successor agency, acting by and through its Director or his or her designee.

“Director” means the Director of the Department of Health or of its successor agency.

“District of Columbia Director Credential” means a credential awarded by or under the auspices of the District of Columbia Department of Human Services Early Care and Education Administration, or its successor agency, upon satisfactory completion of a program of classroom study and practicum experience in fields of study directly related to the operation and administration of Child Development Facilities.

“Expanded Child Development Home” means a Child Development Home in which child care is provided by two (2) or more Caregivers for up to twelve (12) children.

"Facility" means Child Development Facility.

"Fever" means a temperature of one hundred degrees Fahrenheit (100° F) or higher if taken under the arm, one hundred and one degrees Fahrenheit (101° F) if taken orally, or one hundred and two degrees Fahrenheit (102 ° F) if taken rectally. For children under the age of four (4) months, a fever is a temperature of one hundred and one degrees Fahrenheit (101°) or higher taken by any method.

“Guardian” means a person, other than the child’s parent, who has been granted legal authority over and responsibility for a child.

“Hour” means, when used in the context of training and/or continuing education, “clock hour” as that term is defined and used in the academic and educational fields.

“Infant” means a child younger than twelve (12) months of age.

“Licensed Health Care Practitioner” means a Physician, a Nurse-Practitioner (also known as an Advanced Practice Registered Nurse), or a Physician’s Assistant licensed to practice health care by the D.C. Board of Medicine or Board of Nursing, or by a comparable body in another state.

“Licensee” means a Child Development Facility licensed pursuant to this Chapter, or the operator of such a Facility.

“Neglect” means the failure to provide care, services and supervision necessary to avoid physical harm or mental anguish.

“Non-Ambulatory Child” means a child who is: (1) unable to leave a building under emergency conditions without assistance; (2) unable to walk forward or backward without assistance; (3) unable to go up or down steps without assistance; or (4) dependent upon mechanical aids such as crutches, walkers or wheelchairs.

“Non-peak hours” means: for programs operating during traditional daytime hours, before 9:00 a.m. and after 4:00 p.m.; and for programs operating outside of traditional daytime hours, time periods as specified in writing to, and accepted by, the Director.

"Out-of-school-time Care" means care and other services, supervision and guidance provided to one or more children of legal school age and under the age of fifteen (15) years, who are enrolled in public, private, or charter schools, before and after normal school hours.

“Parent” means the mother or father of a child, by blood, adoption, foster care placement, or appointment as legal guardian or custodian of that child by a court of competent jurisdiction.

“Preschool” or “Preschooler” refers to a child older than twenty-four (24) months of age but younger than compulsory school attendance age, and who is not enrolled in a public, charter, or private school.

“Primary Caregiver” means an individual who operates an Expanded Child Development Home and who is in charge of the day-to-day operations of the Home; this person must reside in the dwelling where the Facility is located.

"Special Needs" means conditions or characteristics of a person that reflect a need for particular care, services or treatment, most commonly physical and/or mental disabilities and/or delays.

“Staff” or “Staff Member” means an adult who renders child care or related services directly to a Child Development Facility, whether compensated or uncompensated. “Staff” includes paid employees and volunteers.

“Toddler” means an individual older than twelve (12) months but younger than twenty-four (24) months of age.

“Unusual Incident” means any accident, injury, or other extraordinary event that involves a child in care, a staff member, or the operation of a Child Development Facility, including suspected child maltreatment or abuse.

“Volunteer” means a person rendering services to a Child Development Facility without compensation by the Facility, including a person so rendering services as part of an internship or otherwise under the auspices of an educational or training program.

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D. C. Official Code, § 1-307.02), Reorganization Plan No. 4 of 1996, and Mayor's Order 97-42, dated February 18, 1997 hereby gives notice of the adoption of the following new sections 950 and 951 of Chapter 9 of Title 29 of the District of Columbia Municipal Regulations (DCMR) entitled "Payment for Reserved Beds".

This rulemaking will authorize the Department of Health, Medical Assistance Administration (MAA) to amend the policy governing reserved bed days in intermediate care facilities for persons with mental retardation (ICFs/MR). Vendor payment for reserved bed days under the current policy is limited to 18 days per year. These rules will increase the number of reserved bed days for ICFs/MR by providing a maximum of 15 hospitalization and 45 therapeutic leave days during a 12 month period for which the provider would be paid the facility per diem rate, excluding the cost for one-to-one services. These rules shall also clarify that payment for reserved bed days in nursing facilities and ICFs/MR is to occur only after a Medicaid eligible individual resides in the facility for at least one day. Based on discussions with consumer advocates, family members and providers, MAA determined that an increase in the number of reserved bed days for therapeutic leaves of absence for persons residing in ICFs/MR would be in the best interests of both the individual receiving services and family. The increase in the number of days for therapeutic leave is adopted with the goal of enhancing the quality of life for ICF/MR residents.

On December 29, 2006 (53 DCR 10333) a notice of proposed rulemaking was published in the *D.C. Register*. Comments were received. No substantive changes have been made. Section 950.5 was amended to clarify when a leave day begins and ends for purposes of vendor payment.

The corresponding amendment to the District of Columbia State Plan for Medical Assistance ("State Plan") was approved by the Council of the District of Columbia. These rules shall become effective on May 1, 2007, if the corresponding State Plan amendment has been approved by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) with an effective date of May 1, 2007 or the effective date established by CMS in its approval of the corresponding State Plan amendment. If approved, the Department of Health will publish a notice which sets forth the effective date of the rules.

Title 29 DCMR is amended by adding the following new sections 950 and 951 of Chapter 9 to read as follows:

950 PAYMENT FOR RESERVED BEDS

950.1 Vendor payment for reserved bed days for hospitalization or therapeutic leaves of absence, for a resident of a nursing facility, when provided in the resident's plan of care, shall not exceed eighteen (18) days during any fiscal year, if there is a reasonable expectation that the resident will return to the nursing facility.

950.2 Vendor payment for reserved bed days for hospitalization, for a resident of an intermediate care facility for persons with mental retardation (ICFs/MR) shall not exceed fifteen (15) days during any fiscal year, if there is a reasonable expectation that the resident will return to the facility.

950.3 Vendor payment for reserved bed days for therapeutic leaves of absence, for a resident of an ICF/MR, when provided in the resident's plan of care shall not exceed forty-five (45) days during any fiscal year, if there is a reasonable expectation that the resident will return to the facility.

950.4 Payment for reserved bed days authorized in accordance with section 950.1 shall equal 100 percent of the facility's per diem rate.

950.5 Payment for reserved bed days authorized in accordance with sections 950.2 and 950.3 shall equal the facility's per diem rate and shall not include reimbursement for one to one services. A reserved bed day for purposes of this section is a day in which an ICF/MR resident receives fewer than eight of hours of supports in an ICF/MR beginning at midnight (12:00 am) and ending at 11:59 p.m.

950.6 Each resident shall reside in the nursing facility or ICF/MR for at least one day as a condition of vendor payment for reserved bed days.

950.7 Each provider shall require the family member or caregiver to sign a leave and request form upon exit and return to the facility. The provider shall ensure that each family member or caregiver provide contact information.

950.8 Each provider shall discuss the resident's medical regimen with the family member or caregiver. The provider shall ensure that each family member or caregiver is provided a sufficient quantity of the resident's medication for the leave period.

950.9 Each provider shall report to MAA any unusual incident that occurred during any therapeutic leave of absence.

951 MONTHLY REPORTING REQUIREMENTS FOR RESERVED BED DAYS

951.1 Each provider shall submit to MAA on a monthly basis a status report reflecting the total number of reserved bed days used for each resident during the month and the cumulative total for the fiscal year, including the additional hospitalization days authorized pursuant to these rules. The report shall include the following information:

(a) Resident's name;
(b) Medicaid identification number;
(c) Number of hospitalization reserved bed days used in previous months;
(d) Number of therapeutic leave reserved bed days used in previous months;
(e) Number of hospitalization reserved bed days used in the current month;
(f) Number of therapeutic leave reserved bed days used in the current month;
(g) Cumulative hospitalization reserved bed days used to date in the fiscal year; and
(h) Cumulative therapeutic leave reserved bed days used to date in the fiscal year.

951.2 The monthly status report shall be submitted to MAA no later than the 10th day of each month unless the 10th day is on a weekend or a District of Columbia government holiday. In the case of a weekend or holiday, the report shall be submitted the first business day following the weekend or holiday.

951.3 The Medicaid Program shall seek repayment from the provider for any reserved bed days in excess of the limitations set forth in section 950.

951.99 DEFINITIONS

When used in sections 950 and 951 of this Chapter, the following terms and phrases shall have meanings ascribed:

Fiscal Year (FY) - Shall have the same meaning as the District of Columbia government fiscal year, October 1 through September 30.

Therapeutic Leave- Includes visits with relatives and friends as well as leave to participate in State-approved therapeutic and rehabilitative programs.