RULES AND REGULATIONS
GOVERNING
CHILD CARE FACILITIES

PART 1.0.00

GENERAL PROVISIONS

SECTION 1.1.00 General

1.1.01 Definitions

(a) **"Child"** shall mean a person under 18 years of age.

(b) **"Child Care Facility"** shall mean any person or place which receives or arranges placement of one or more children who are not related to such person, whether for gain or otherwise, apart from the parents or guardian, with or without the transfer of the right of custody for the purpose of providing regular care or training for such child or children during the day or night, or both.

(c) **"Construction Permit"** shall mean a permit issued by the Department of Public Health and Social Services giving permission to construct, extend, alter, or modify a structure or building to be used or being used as child care facility.

(d) **"Child Care Center/Nursery"** shall mean a group care facility operated under public or private auspices, serving 13 or more children for a portion of a 24 hour day.

(e) **"Department"** shall mean the Guam Department of Public Health and Social Services or his designated representative.

(f) **"Director"** shall mean the Director of Public Health and Social Services or his designated representative.

(g) **"Division"** shall mean the Division of Environmental Health, Department of Public Health and Social Services.

(h) **"Facility Director"** shall mean the person who has the prime responsibility to administer the facility and to develop the total program.

(i) **"Family Day Care Home"** shall mean a family home in which one but not more than 6 children are received for care and supervision in a family setting during a portion of a 24 hour day.

(j) **"Family Foster Home"** shall mean a home which provides substitute family care on a 24 hour basis for no more tha 6 minor children under 18 years of age who are living apart from their parents or guardians.

(k) **"Group Foster Home"** – A home which provides family-like care for a group of seven or more, but not nore than twelve children during a portion of the 24 hour day. This day care program is located in a modified or extended family residence and ideally should be found within the neighborhood of the family needing day care services.

(l) **"Group Day Care Home"** shall mean a home which provides family-like care for a group of at least 7 but not more than 12 children during a portion of a 24 hour day.

(m) **"Hazardous Substances"** shall refer to definitions in Public Law 15-96, Subchapter M, Section 9620 (b).

(n) **"Health Certificate"** – A certificate issued to a person employed within any institutional facility.

(o) **"Inspection"** A regulatory evaluation of a health regulated establishment for the purpose of determining the level of compliance with applicable regulations for safe and sanitary operating conditions.

(p) **"Person"** shall mean any individual, company, corporation or other business entity.

(q) **"Residental Treatment Facility"** for children shall mean a group care treatment facility staffed and equipped for professional therapy or treatment, casework and diagnostic services for children with special emotional, behavioural, or medical problems.

(r) **"Sanitary Permit"** shall mean a written document issued by the Department of Public Health and Social Services giving a designated person permission to operate a child care facility for a time period not to exceed 12 months on a permanent basis.

(s) **"Sanitize"** shall mean an effective bacterial treatment of clean surfaces of equipment, utensils, and linens by a process which has been approved by the Department of Public Health and Social Services as a means of destroying microorganisms, including pathogens.

(t) **"Staff Members"** shall mean child care personnel or members of the operator's family who assist at the center, or volunteer workers excluding staff for cooking and maintenance who shall not be counted in child/staff ration.

(u) **"Temporary Sanitary Permit"** shall mean a Sanitary Permit issued in conjunction with the Provisional License from the Child Welfare Services and which is valid for no more than six months.

SECTION 1.2.00 Authority

1.2.01 General

Public Law 15-96, Environmental Health Act, Subchapter F, Section 9550.0 through 9550.4 authorizes the Department to establish rules and regulations governing all child care facilities and to ensure that all provisions of Public Law 15-96 regarding permit issuance are carried out. The Department may inspect homes, centers, institutions, or places where any child care service is being provided.

SECTION 1.3.00 Permits

1.3.01 Sanitary Permit

(a) No person shall directly or indirectly conduct, control, manage, maintain or operate a child care facility unless said person has obtained and posted a valid Sanitary Permit issued by the Department to operate such specific child care facility.

(b) An application for a Sanitary Permit to operate a child care center shall be made in writing on a form prescribed by the Department and signed by the applicant or his authorized agent.

(c) Before an applicant for a Sanitary Permit shall be approved, the Division shall verify through an inspection report that the facility meets the minimum sanitary requirements and standards. This will involve right of entry and inspection.

(d) Application for Sanitary Permit or renewal of same for child care facilities, shall include the payment of a non-refundable fee according to the following category:

i. Family Foster Home – No charge
ii. Family Day Care – $ 5.00
iii. Group Day Care Home – $ 60.00

iv. Child Care Center – $ 60.00
v. Group Care Home – $ 60.00
vi. Residential Treatment Facility for Children – $ 60.00

(e) If upon inspection the Division is satisfied that the applicant and the facility reasonably meet the qualifications and standards prescribed, a non-transferable Sanitary Permit designating the type of facility shall be issued. Said Sanitary Permit shall be posted in the facility. All Sanitary Permits shall be valid for 12 months and renewed on June 30 of each year. Fees for Sanitary Permits shall be prorated to reflect an adequate charge to June 30.

(f) If the initial inspection or renewal inspection for a Sanitary Permit indicates that the facility does not meet the applicable standards, the Sanitary Permit shall be denied or terminated.

(g) An application for renewal of Sanitary Permit shall be filed 15 days prior to its expiration date, and upon approval by the Division, a new Sanitary Permit shall be issued.

(h) Failure to comply with any rule or regulation or refusal to renew the current Sanitary Permit of any child care facility is reason for revocation, suspension, or disapproval to issue a new sanitary permit.

(i) Any child care facility whose sanitary permit is denied, or has been revoked for cause, may appeal the Director's action. The appeal shall be in accordance with Subchapter B, Section 9510.8, of Public Law 15-96.

(j) A temporary sanitary permit shall be issued in conjunction with the Provisional License issued by the Child Welfare Services.
   i. Conditions regarding the ussuance of the temporary sanitary permit will be determined by the circumstances at the time of application and be reviewed by the DEH, CWS and establishment representatives.

1.3.02 Construction Permit

(a) No person shall be allowed to construct a building or structure to be used as a child care facility, or extend, alter, or modify any structure used or to be used as a child care facility without first submitting the plans and specifications to the Division of Environmental Health.

(b) A construction Permit shall not be issued until detailed plans and specifications of the child care center have been submitted for review and approval.

(c) After the issuance of a Construction Permit, field inspections shall be made during the construction in order to determine compliance with all plans and specifications submitted.

SECTION 1.4.00 Advertising

1.4.01 General

A child care facility under permit by the Division may publish advertisements of the services for which it has been specifically given a Sanitary Permit.

SECTION 1.5.00 Exemptions

1.5.01 General

No Sanitary Permit is required for the following conditions:

(a) Care of a relative, friend, or neighbor's children with or without compensation where the person furnishing such care does not regularly engage in such activity and does not advertise or hold himself/herself out as conducting a child care facility, or

(b) Parents who on a mutually cooperative basis exchange one another's children, or care of children in their own home, or

(c) Facilities operated in connection with a shopping center where children are received without compensation while parents are on the premises, or

(d) Facilities operated in connection with a church, hospital, clinic or educational institutions where children are received without compensation while parents are on the premises, or

(e) Kindergarten or nursery schools operated by public or private elementary or secondary level school systems.

SECTION 1.6.00 Health Certificates

1.6.01 General

(a) Each staff member of a child care facility must possess a valid health certificate that must be renewed annually and shall be displayed prominently in the facility.

(b) All staff members shall have had a physical examination from a licensed physician indicating that the individual is free from any communicable disease and is on good health. This examination shall be renewed annually and shall be kept on file in the facility.

SECTION 1.7.00 Administration

1.7.01 General

Each center shall have a written statement of operating policies and procedures. The statement shall include name of the owner, purposes and goals of centers, ages of children accepted, hours of operation, information regarding meals, maximum number of children, fees and plans of payments, regulations regarding procedures, and staff-child ratios.

1.7.02 Child-Staff Ratio

The number of children per staff member, excluding staff for cooking and maintenance shall not exceed:

(a) 5 children under 1 year of age; or
(b) 8 children age 1 to 2 years old; or
(c) 10 children age 2 to 3 years old; or
(d) 15 children age 3 to 4 years old; or
(e) 20 children age 4 to 5 years old; or
(f) 25 children age 5 years and up.

SECTION 1.8.00 Location and Premises

1.8.01 Location

(a) The day care center shall be located in quiet surroundings, away from excessive noise, odors, dust, smoke, traffic, or other hazardous environmental conditions which would interface with the children's comfort, health and safety.

(b) No day care center shall be located in a private family residence unless that portion of the residence to which children have access is separated from the usual living quarters of the family.

1.8.02 Waste Disposal

(a) Centers shall be clean and sanitary with proper means of waste disposal and plumbing outlets connected to a septic tank or sewer system and shall conform with Public Law 15-96, Subchapter T, and GEPA Wastewater Regulations.

(b) All garbage and trash shall be kept in tight, easily cleanable receptacles which are covered with tight-fitting lids while pending removal and shall be removed from the premises as often as necessary to prevent health hazards.

SECTION 1.9.00 Design and Construction

1.9.01 General

(a) It shall be the responsibility of the operator to meet the standards which conform to the construction standards of the current local building codes.

(b) Adherance to the latest editions of the Uniform Plumbing Code, Uniform Building Code, Uniform Mechanical Code, National Electrical Code, and the Guam Fire Prevention Code shall be required for all new construction, remodeling or renovation.

(c) The building shall have a sunny exposure, be well-lighted, and well-ventilated.

(d) Walls and ceilings shall be of washable materials and shall be light in color.

(e) Floors and steps shall be free of safety hazards and shall be constructed of or surfaced with non-slippery materials.

(f) No furnishings or decorations of an explosive or high flammable material shall be used. Curtains and draperies shall be flame resistant.

(g) Exit doors shall open outward. "Exit" signs where necessary shall conform with requirements of the current Guam Building Code.

(h) All stairways, exit corridors and passageways shall be illuminated at all times with at least ten foot-candles of light to facilitate egress.

(i) Hallways, passageways, or corridors shall be free and clear of obstructions.

(j) Extension cords shall not exceed 10 feet in length; shall not extend from one room to another; shall not be stapled, nailed or otherwise permanently fastened to walls, floors, or ceilings; and shall not be placed under rugs or carpets.

SECTION 1.10.00 Capacity and Occupancy

1.10.01 General

(a) For daytime care, there shall be a minimum of 35 square feet per child of indoor area, excluding bathroom, kitchen, closet space, and hallways.

(b) For night-time care, there shall be a minimum of 50 square feet per child of indoor area, excluding bathroom, kitchen, closet space, and hallways.

(c) Separate cots shall be provided. If the floor is carpeted, mats or pads may be used. Cots, mats, or pads shall be placed at least 2 feet apart when in use.

(d) A lanai with a roof to provide for safe activity may be counted as indoor or outdoor space.

(e) An isolation room or area must be made available for sick children.

SECTION 1.11.00 Toilet and Handwashing Facilities

1.11.01 General

(a) The center shall be provided with inside toilet rooms equipped with securely fastened and supported wash basins and flush toilets. Toilet rooms shall be located on the same floor as inside play areas, in close proximity to indoor and outdoor play areas, and shall not exceed 50 feet from these areas.

(b) For every 15 children, there shall be a minimum of 1 toilet and 1 basin conveniently located. Facilities shall be separated to each sex.

(c) Toilets and wash basins shall be of suitable height and size and so equipped as to be readily accessible to the children. If child-size toilets and wash basins are not available, steps or platforms shall be provided to encourage self-help and independence.

(d) Toilet and handwashing facilities shall be provided for the staff and other adults when child-size facilities are provided for the children.

(e) Soap, toilet tissue, and individual sanitary paper towels shall be provided.

(f0 The floor in the toilet room shall be water resistant and non-absorbent.

(g) Adequate facilities for sanitizing potty chairs and toilet seats after each use shall be provided.

(h) Hot water shall be provided for handwashing through mixing faucets but shall not exceed a temperature of 110 degrees F to prevent injury to children.

SECTION 1.12.00 Kitchen Facilities

1.12.01 General

Adequate facilities and proper methods for the preparation, serving, refrigeration, and storage of food shall be provided in conformance with applicable Public Health regulations for eating and drinking establishments.

SECTION 1.13.00 Water Supply, Sewage, and Plumbing

1.13.01 General

(a) There shall be an approved potable water supply and the delivery system shall conform with the requirements of the Uniform Plumbing Code.

(b) There shall be an approved child-size drinking facilities provided. If drinking fountains are not available, individual disposable cups from a sanitary dispenser shall be provided.

(c) Hot and cold running water shall be provided in all lavatories and kitchen areas. The temperature of the hot water shall not exceed 110°F in lavatories and bathtubs.

(d) All liquid wastes must be discharged to a public sanitary sewer or to an individual sewage disposal system spproved by the GEPA.

(e) The plumbing system shall be operated and maintained so that no health hazards are created.

(f) The potable water supply system shall not be directly connected with any non-potable water supply system.

(g) There shall be no possibility of back-siphonage.

SECTION 1.14.00 Lighting and Ventilation

1.14.01 Lighting

(a) A minimum of 20 foot candle light intensity shall be provided in the kitchen and on all other working surfaces and at least 10 foot candles in all other areas in the halls, stairways and laundry areas. Study and play areas shall be provided with at least 30 foot candles of light.

(b) When natural light is insufficient, it shall be supplemented by artificial light, properly diffused and distributed. Adequate light must be available at all times in rooms, halls and stairways.

1.14.02 Ventilation

(a) In air conditioned and mechanically ventilated buildings, the number of windows may be reduced but not to the extent that children are unable to observe the outside during indoor activities.

(b) All windows, doors, ventilators, and other outside openings shall be protected against insects. Screened doors and windows shall be equipped with close fitting screens of 16 mesh.

SECTION 1.15.00 Maintenance and Housekeeping

1.15.01 General

(a) The premises of the facility shall be maintained in a clean, neat and sanitary condition and in a good state of repair.

(b) Rooms shall not be swept or dusted while occupied by children.

(c) All areas, facilities, and equipment shall be kept in a neat, clean, and sanitary condition.

SECTION 1.16.00 Sleeping Facilities

1.16.01 General

(a) Individual cribs, beds, cots, or suitable sleeping mats shall be covered with a non-absorbent washable material and sanitized at frequent intervals. Cots and cribs shall be of cleanable construction and in good repair. Mattresses shall be aired weekly.

(b) Sufficient individual bedding and linens shall be provided. Bedding and linen for each child shall be laundered and sanitized as needed to keep them always clean; and upon change of occupancy.

(c) Where bedding or linen are laundered on the premises, an electric or gas dryer shall be used to ensure adequate sanitization.

SECTION 1.17.00 Outdoor Space

1.17.01 General

(a) There shall be a minimum of 75 square feet of outdoor space available per child.

(b) The outdoor space shall be fenced or protectively enclosed. the entire area shall be easily supervised.

(c) The outdoor play area shall be well drained. Both sunny and shady areas shall be provided.

SECTION 1.18.00 Fire Protection

1.18.01 General

(a) The facility shall be equipped with a functioning fire extinguisher. However, for more than 50 children, an automatic fire extinguisher, fire alarm, or detector system shall be provided. The top of any fire extinguisher shall not be highest than 5 feet above the floor level. All staff members shall be instructed in the use and locations of extinguishers provided.

(b) All flammable liquids shall be kept in tight or sealed containers when not in use and shall be stored on the premises only in such quantities as needed and in an approved place which is also inaccessible to children.

(c) Approved fire escapes shall be provided.

(d) The facility shall be kept free from fire hazards and combustible materials shall not be permitted to accumulate upon the premises. Dust and grease shall not be allowed to accumulate on hoods above stoves and other equipment. Storage areas shall be kept clean and free of any flammable substances.

(e) Outside the building, at least one 3/4-inch diameter hose bib faucet shall be provided.

(f) Smoking shall be permitted only in specifically designated areas away from children and food.

(g) A written and rehearsed plan of evacuation in the event of fire or other emergency must be developed and instruction in same must be given to the staff. Regular drills by the staff and children in this procedure shall be held at least every month. Drill records shall be maintained.

SECTION 1.19.00 Safety

1.19.01 General

(a) Adequate protection shall be provided to ensure that all poisons, dangerous chemicals, and hazardous substances shall be kept out of the reach of children.

(b) Standard first-aid equipment shall be accessible to all staff members but kept out of the reach of children.

(c) Telephone or other suitable means of communication for emergency purposes, or adequate means of transportation shall be provided.

(d) Gates at the head of the stairs shall be provided and handrails on the stairways shall be within reach of children. These shall be maintained free of obstructions. Use of circular staircases as a means of egress is prohibited.

(e) All windows and outside doors that are hazardous to children shall be equipped with screens or guards which shall be attached in such a way that they may either be removed from the inside or broken into from the outside without the use of tools during normal operating hours.

(f) Electrical outlets shall be provided with protective covering or insulation.

(g) Plastic bags and sharp tools shall not be in an area accessible to children.

(h) Stoves and cooking equipment shall be equipped with safety devices on the burners and all handles on the pots and pans shall be turned so that a child can not reach them from floor level. Children shall not be permitted to play or sleep in the kitchen.

(i) Crib bars shall be constructed that infants cannot be trapped between the bars.

(j) Toys shall be safe, non-toxic, or non-shatterable material, without sharp points, easily cleanable, and large enough not to be swallowed.

(k) All corrosive agents, insecticides, rodenticides, herbicides, bleaches, detergents, polishes, items containing petroleum products, any product which is under pressure in an aerosol dispensing container, and any substance which may be toxic to a child if ingested, inhaled, or handled shall be stored in a locked cabinet and in an area not accessible to the children.

(l) No surfaces covered with lead paint shall be accessible to the children.

(m) No poisonous plants shall be located on the premises.

SECTION 1.20.00 Grounds and Playground Equipment

1.20.01 General

(a) Grass or other soft media shall be used under swings, slides, jungle gyms, and similar outdoor play equipment, or other protective measures shall be taken.

(b) Playground equipment shall be placed at least 6 feet from obstructions such as fences or walls.

(c) All equipment and materials shall be of sufficient quantity and variety suited to the size, needs, and abilities of the children.

(d) Equipment shall be of safe construction and material, easily cleaned, kept in good condition, free from sharp, loose or pointed parts; and where paint is used, it shall be of safe quality.

SECTION 1.21.00 Pets

1.21.01 General

(a) Housing of all pets, animals, and fowl shall be maintained in a safe and sanitary manner at all times and located in an area inaccessible to children. Dogs must be leashed and cats, if unconfined, must be declared.

(b) No vicious animals, insects, arthropods, etc. that are dangerous to health and safety, shall be kept on the premises.

SECTION 1.22.00 Insect and Rodent Control

1.22.01 General

Care should be taken to eliminate harborage and food sources for rodents and insects. Should a building become infested, a certified commercial exterminator shall be employed. Only approved chemicals and chemical control method shall be used.

SECTION 1.23.00 Care of Children

1.23.01 General

(a) There shall be a daily health inspection of each child upon arrival at the home.

(b) A child who becomes ill after he/she has arrived at the facility shall be separated from the rest of the group but within call of an adult until the parents come to pick-up the child.

(c) Specific instructions obtained from a physician for the feeding and care of children with special problems shall be written into their records and followed.

(d) Under no circumstances shall a child care provider give medication of any kind unless prescribed by a physician.

i. Should she/he accept this responsibility, the medication shall be kept in the original container bearing the prescription label which shows the date filled, physician's directions for use, the physician's name, and the child's name.

ii. Medication shall be kept out of reach of the children and returned to parents when no longer needed.

SECTION 1.24.00 Health

1.24.01 General

(a) Information should be obtained regarding the health history of child care providers including a written statement from a physician regarding their general health, specific illnesses or disabilities, and written reports of chest x-rays.

(b) It should be determined that other adults or children 12 years and older in the household, do not present hazards to a child in placement through communicable disease or other illness.

(c) Annual physical examinations are required.

PART 2.0.00
CHILD CARE CENTERS/NURSERIES

2.0.01 General

Requirements for Child Care Centers/Nurseries are the same as those found in Sections 1.7.00 to 1.24.00 of Part 1.0.00

PART 3.0.00
FAMILY DAY CARE AND GROUP DAY CARE

SECTION 3.1.00 Capacity Restrictions

3.1.01 Family Day Care Home

(a) Infancy through 6 years. No more than 2 children under 2 years old and no more than 6 in total including the family day care mothers' own children under fourteen years of age.

(b) Three through 14 years, no more than 6 children including the family day care mothers' own children under fourteen years of age.

3.1.02 Group Day Care Home may range up to 12 children but the child-staff ratio will be the same as those established for child care centers/nurseries.

SECTION 3.2.00 Requirement

3.2.01 Requirements for family day care and group day care homes are the same as those found in Sections 1.7.00 to 1.24.00, Part 1.0.00 of these rules and regulations.

PART 4.0.00
FAMILY FOSTER HOME AND FOSTER GROUP HOME

SECTION 4.1.00 Description

4.1.01 General

(a) A family foster home is one which provides substitute family care for a planned period for a child when his/her own family cannot care for him/her for a temporary or extended period.

(b) A group foster home is a single dwelling in which there is on-going family life and where a couple either lives in their own home or are employed as staff in a home. It has a primary purpose of providing care and training on a 24-hour basis for a group of children with special needs who can relate to a family as part of a group and whose experience of a family life can on this way be enhanced.

SECTION 4.2.00 Capacity Restrictions

4.2.01 Family Foster Home

(a) A family foster home may care for not more than 6 children, including the foster parents' own children under 5 years of age.

(b) There shall be no more than 2 children under the age of 2 years including the foster parents' own children.

4.2.02 Group Foster Home

A group care home may care for 7 to 12 children generally from varying ages over 3 years. It should be available for children with special needs.

SECTION 4.3.00 Location

4.3.01 General

Family foster and group foster homes and residential treatment facilities should be located where school, church, recreational, and other community facilities are reasonably accessible.

SECTION 4.4.00 Housing and Sleeping Arrangements

4.4.01 General

(a) Physical facilities of the facility should present no hazard to the safety of any child in placement.

(b) Sleeping arrangements should be such that a separate bed can be provided for each child.

(c) There should be sufficient sleeping space so that neither the foster family's own children or child in placement share the bedroom of any adult. However, cultural practices of the foster child and foster parents should be taken into consideration regarding sleeping arrangements.

(d) Sleeping rooms shall not be shared by children of opposite sexes.

(e) Except for infants, sleeping arrangements shall be such that a space is provided within the sleeping room for the child's personal possessions and for a reasonable degree of privacy.

SECTION 4.5.00 Other Requirements

4.5.01 General

Other requirements for family foster homes and group foster homes follow those of Sections 1.3.00 to 1.17.00 Part 1.0.00 of these rules and regulations.

PART 5.0.00
SEPARABILITY

If any phrase, clause, sentence, section, subsection, provision, or part of these regulations or its application to any person or circumstances, if for any reason be held to be unconstitutional or invalid, the remaining portion of these regulations or the application of these regulations to other person or circumstances shall not be affected.

PART 6.0.00
EXEMPTIONS

In the event that an establishment or person is unable to comply with certain requirements of these regulations, the Director may authorize and exempt that particular section, but shall be augmented by increased requirements in other sections in order to provide adequate protection for the children. These requirements will be determined by representatives of the DEH, CWS and the establishment on a case by case basis.

PART 7.0.00
REPEALER

These regulation supersede any previously passed regulations regarding child care facilities issued by the Division.

Adopted this 15th day of March, 1984.

DENNIS G. RODRIGUEZ
Director

APPROVED:

RICHARD OPPER
Attorney General

Date: 4/9/84

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