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I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
THIRTY-FIRST GUAM LEGISLATURE
155 Hessler Place, Hagåtña, Guam 96910

May 23, 2011

The Honorable Edward J.B. Calvo
I Maga'lahaen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910

Dear *Maga'lahi* Calvo:

Transmitted herewith is Substitute Bill No. 70-31(COR) which was passed by *I Mina' Trentai Unu Na Liheslaturan Guåhan* on May 10, 2011.

Sincerely,

TINA ROSE MUÑA BARNES
Senator and Legislative Secretary

Enclosure (1)

OFFICE OF THE CLERK
LEGISLATURE
TIME 3:20p DATE 5/23/11

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**I MINA'TRENTAI UNU NA LIHESLATURAN GUÅHAN
2011 (FIRST) Regular Session**

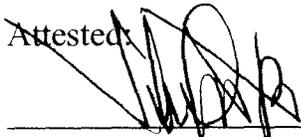
CERTIFICATION OF PASSAGE OF AN ACT TO IMAGA'LAHEN GUÅHAN

This is to certify that Substitute Bill No. 70-31 (COR), "AN ACT TO ESTABLISH THE ADMINISTRATIVE RULES AND REGULATIONS OF THE DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES RELATIVE TO CHILD CARE FACILITIES AND GROUP CHILD CARE HOMES, UNDER ARTICLE 1 OF CHAPTER 1, DIVISION 1, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS, AND IN CONFORMANCE WITH ARTICLE 4, CHILD WELFARE SERVICES ACT, CHAPTER 2, DIVISION 1, TITLE 10, GUAM CODE ANNOTATED", was on the 10th day of May, 2011, duly and regularly passed.



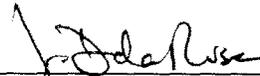
**Judith T. Won Pat, Ed.D.
Speaker**

Attested:



**Tina Rose Muña Barnes
Legislative Secretary**

This Act was received by *I Maga'lahen Guåhan* this 23rd day of May, 2011, at 3:20 o'clock P.M.



**Assistant Staff Officer
*Maga'lahi's Office***

APPROVED:

EDWARD J.B. CALVO
I Maga'lahen Guåhan

Date: _____
Public Law No. _____

I MINA'TRENTAI UNU NA LIHESLATURAN GUAHAN
2011 (FIRST) Regular Session

Bill No. 70-31 (COR)

As substituted by Committee on Health & Human Services,
Senior Citizens, Economic Development and Election Reform,
and amended in the Committee of the Whole.

Introduced by:

Dennis G. Rodriguez, Jr.
Aline A. Yamashita, Ph.D.
T. C. Ada

V. Anthony Ada
F. F. Blas, Jr.
B. J.F. Cruz
Chris M. Dueñas
Judith P. Guthertz, DPA
Sam Mabini, Ph.D.
T. R. Muña Barnes
Adolpho B. Palacios, Sr.
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R. J. Respicio
M. Silva Taijeron
Judith T. Won Pat, Ed.D.

**AN ACT TO ESTABLISH THE ADMINISTRATIVE
RULES AND REGULATIONS OF THE DEPARTMENT
OF PUBLIC HEALTH & SOCIAL SERVICES
RELATIVE TO CHILD CARE FACILITIES AND
GROUP CHILD CARE HOMES, UNDER ARTICLE 1 OF
CHAPTER 1, DIVISION 1, TITLE 26, GUAM
ADMINISTRATIVE RULES AND REGULATIONS, AND
IN CONFORMANCE WITH ARTICLE 4, CHILD
WELFARE SERVICES ACT, CHAPTER 2, DIVISION 1,
TITLE 10, GUAM CODE ANNOTATED.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that the administrative rules and regulations for Child Care Facilities are antiquated.

1 The Department of Public Health & Social Services is currently utilizing Social
2 Services Rules and Regulations No. 10, which were initially established pursuant to
3 Section 9120.7 of Chapter X, Government Code of Guam on December 12, 1972, as
4 amended and promulgated pursuant to Executive Order 78-27 on September 8, 1978.
5 Though the amended rules and regulations went through the public hearing process,
6 the revised Standards for Social Services Rules and Regulations No. 10 were
7 ultimately approved and promulgated pursuant to Executive Order No. 1978-10, but
8 *not* subsequently transmitted to *I Liheslaturan Guåhan*. Consequently, the current
9 rules and regulations being utilized have *not* been duly revised and fully
10 promulgated for the past thirty-three (33) years.

11 *I Liheslaturan Guåhan* finds that the proposed administrative rules and
12 regulations pursuant to this Act for Child Care Facilities and Group Child Care
13 Homes, as provided and required pursuant to Article 4, Child Welfare Services Act,
14 of Chapter 2, Title 10, Guam Code Annotated (P.L. 11-99), is appropriate and
15 necessary.

16 Further, *I Liheslaturan Guåhan* takes due note that the Department of Public
17 Health & Social Services, in the development of the proposed guidelines addressed
18 herein, made a good faith effort to be inclusive of the affected stakeholders in the
19 child care industry. The proposed rules and regulations is a work product which has,
20 to a great extent, incorporated input from stakeholders in the field, albeit perhaps
21 without universal approval, but with the widespread recognition that the existing
22 rules are antiquated and significant revision is necessary.

23 It is the intent of *I Liheslaturan Guåhan* to provide for the initial
24 establishment of the administrative rules and regulations for child care facilities and
25 group child care homes.

26 Further, so as to ensure that the rules adopted pursuant to this Act remain
27 pertinent to and consistent with the needs of the community, it is the intent of *I*

1 *Liheslaturan Guåhan* to provide an authorization and mandate for the Department of
2 Public Health & Social Services to regularly review the rules adopted pursuant to
3 this Act, and as appropriate promulgate amendments thereto pursuant to Article 3,
4 Rule-Making Procedures, of Chapter 9, Title 5, Guam Code Annotated.

5 **Section 2. Adoption of Rules.** Notwithstanding any other provision of law,
6 rule, regulation and Executive Order, the rules and regulations of the Department of
7 Public Health & Social Services for Child Care Facilities and Group Child Care
8 Homes, and attached hereto as Exhibit “A”, are hereby adopted by *I Mina’ Trentai*
9 *Unu Na Liheslaturan Guåhan*, and *shall* be codified under Article 1, Child Welfare
10 Services Act, Chapter 1, Division 1, Title 26, Guam Administrative Rules and
11 Regulations.

12 **Section 3. Amendment of Rules.** The Department of Public Health &
13 Social Services *shall*, at a minimum of every five (5) years, and pursuant to Article
14 3, Rule-Making Procedures, Chapter 9, Title 5, Guam Code Annotated, review and
15 amend the administrative rules and regulations adopted pursuant to Section 2 of this
16 Act.

17 **Section 4.** A new §2416 is hereby *added* to Article 4 of Chapter 2, Division
18 1, Title 10, Guam Code Annotated, to read:

19 **“§2416. Child Care Revolving Fund.** There is hereby established
20 a Child Care Revolving Fund (the Fund), to be maintained by the Director of
21 the Department. The Fund *shall* be established and maintained in an account
22 separate and apart from any other account(s) of the government of Guam, and
23 *shall not* be co-mingled. All funds due or accruing to the account from
24 whatever source(s), as provided or authorized pursuant to applicable law,
25 inclusive of any interest, *shall* be deposited in the Fund immediately upon
26 receipt by the government of Guam.

1 (a) The Department *shall* report monthly and maintain full
2 compliance with all financial reporting requirements of the government
3 of Guam pursuant to applicable laws. Reports *shall* be submitted to *I*
4 *Liheslaturan Guåhan* via the office of *I Maga’lahen Guåhan* [Governor
5 of Guam].

6 (b) **No Transfer Authority.** The money placed in the Fund is
7 *not* subject to any transfer authority of *I Maga’lahen Guåhan*
8 [Governor of Guam].”

9 **Section 5. Effective Date.** The administrative rules and regulations adopted
10 pursuant to Section 2 of this Act *shall* become effective upon enactment.

11 **Exhibit “A”**

12 **Title 26 Guam Administrative Rules and Regulations**

13 **Chapter 1**

14 **“Article 1 - Child Welfare Services Act**

15 **RULES AND REGULATIONS FOR LICENSED**

16 **CHILD CARE FACILITIES AND GROUP CHILD CARE HOMES**

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1 in §1101.5(f). The Department *shall*, pursuant to the provisions of the
2 Administrative Adjudication Law, adopt minimum standards for licensing.
3 Such standards *shall* be applicable to all child care facilities, including those
4 operated by the Department, and *shall* pertain to the following:

5 (a) the operation and conduct of the facility and
6 responsibility it assumes for child care;

7 (b) the character, suitability and qualifications of the
8 applicant and other persons directly responsible for the care and
9 welfare of children served;

10 (c) the general financial ability and competence of the
11 applicant to provide necessary care for children and to maintain
12 prescribed standards;

13 (d) the number of individuals or staff required to ensure
14 adequate supervision and care of the children received;

15 (e) the appropriateness, safety, cleanliness and general
16 adequacy of the premises, including maintenance of adequate fire
17 prevention and health standards in conformance with existing Guam
18 laws to provide for the physical comfort, care and well-being of
19 children received;

20 (f) provisions for food, clothing, educational opportunities,
21 programs, equipment and individual supplies to assure the healthy
22 physical, mental and spiritual development of children served;

23 (g) provisions to safeguard the legal right of children served;

24 (h) maintenance of records pertaining to the admission,
25 progress, health and termination of care of children;

26 (i) filing of records with the Department;

27 (j) discipline of children; and

1 (k) protection and fostering of the children served.

2 §1101.4. **Title.** These rules and regulations *shall* be known and
3 may be cited as the “Rules and Regulations for Licensed Child Care
4 Facilities and Group Child Care Homes.”

5 §1101.5. **Definitions.** Wherever the following words appear in
6 these rules and regulations, they *shall* have the following definitions:

7 (a) *Appeal* means a written, signed and dated statement
8 requesting reconsideration or modification of a Departmental decision
9 that negatively affects the license of the child care facility. An appeal
10 is made by the licensee or by the facility’s legal entity.

11 (b) *Child* means a person under eighteen (18) years of age,
12 or a child with a disability up to twenty-one (21) years of age.

13 (c) *Early Childhood Assistant* means any person that
14 provides assistance to the teacher who provides primary care for
15 children.

16 (d) *Early Childhood Assistant Director* means a person who
17 assists the Early Childhood Director in the management of a child
18 care facility and/or who has the responsibility to administer the
19 facility and to develop the total program in the absence of the Early
20 Childhood Director.

21 (e) *Early Childhood Director* means a person having
22 responsibility in the management and administration of the facility,
23 and to develop the total program.

24 (f) *Child care facility* means any facility or home licensed
25 by the Department to provide care, education, and supervision for
26 twelve (12) or more children for all or part of a twenty-four (24) hour

1 day, whether or not the facility is operated for profit, or charges for
2 the services it offers.

3 (g) *Cook* means any person who prepares meals for children
4 enrolled in a child care facility.

5 (h) *Department* means the Guam Department of Public
6 Health and Social Services.

7 (i) *Denial* means refusal by the Director to issue a license on
8 a new or renewal application.

9 (j) *Director* means the Director of Public Health and Social
10 Services or his/her authorized representative.

11 (k) *Division* means the Division of Public Welfare,
12 Department of Public Health and Social Services.

13 (l) *Early childhood provider* means a person employed for
14 compensation, and with the knowledge, skills, and abilities in early
15 childhood education, and who is responsible for the physical well-
16 being, direct care, health, safety, supervision, and guidance of children
17 in child care. Education and experience in working with children birth
18 to five (5) years old differentiate the various levels of Initial, Lead and
19 Master Provider. (refer to Appendix A)

20 (m) *Group child care home* means a home or facility which
21 provides child care for *at least* seven (7), and *not more than* twelve
22 (12) children, during all or part of a twenty-four (24) hour day.

23 (n) *Guam Early Learning Guidelines for Young Children*
24 *Birth to Thirty-six (36) Months and Ages Three (3) to Five (5)* means
25 the voluntary early learning guidelines of what young children birth to
26 five (5) years old should know and be able to do. (Appendix B)

1 (o) *Guam's Plan for Professional Development* (Appendix
2 A) means the early childhood education plan, as required by
3 Executive Order 2004-14, and part of Guam's Comprehensive Plan
4 for the Care & Education of Young Children. (Appendix A).

5 (p) *Guardian* means the legal guardian of the person of a
6 minor.

7 (q) *Individualized Education Program* means the document,
8 commonly referred to as an IEP, describing the child's educational
9 program as required by the Guam Department of Education, Division
10 of Special Education under the Individuals with Disabilities Education
11 Improvement Act of 2004 (IDEA), Part B to develop for every student
12 with a disability who is found to meet the federal and state
13 requirements for special education, designed to provide the child with
14 a free and appropriate public education.

15 (r) *Individualized Family Service Plan* means the document,
16 commonly referred to as an IFSP, that identifies the child's and
17 family's individualized supports and early intervention services that
18 will enhance the child's overall development, as required by the
19 Guam Department of Education, Division of Special Education under
20 the Individuals with Disabilities Education Improvement Act of 2004
21 (IDEA), Part C for infants and toddlers with disabilities and their
22 families.

23 (s) *Individuals With Disabilities Education Improvement Act*
24 *of 2004* means the United States federal law that governs how states
25 and public agencies provide early intervention, special education, and
26 related services to children with disabilities.

1 (t) *Infant* means a child from birth through twelve (12)
2 months of age.

3 (u) *License* means a license to operate a child care facility.

4 (v) *License to operate a child care facility* (hereafter referred
5 to as “License”) means the official document issued by the
6 Department authorizing the operation of a child care facility as
7 defined under the terms of the license. This is issued to a child care
8 facility that has met compliance with the minimum requirements as
9 defined in the licensing laws, rules and regulations for the duration of
10 two (2) calendar years.

11 (w) *Licensee* means any entity that is issued a license by the
12 Department.

13 (x) *Maintenance personnel* means any person who provides
14 general maintenance or upkeep of the child care facility.

15 (y) *Performing arts studio shall* mean any facility which
16 provides a performing arts curriculum for children ages two (2) years
17 and up, for twelve (12) or more children, during a portion of a twenty-
18 four (24) hour day.

19 (z) *Practicum student* means any person officially enrolled
20 in any higher educational institution as a student in education, nursing,
21 psychology, social work, early childhood, or related fields with
22 approved practicum under supervision by an instructor and who
23 adheres to a child care facility’s policies and procedures.

24 (aa) *Person* means any person or persons, group of persons,
25 agencies, associations, organizations, whether public, private or
26 incorporated.

1 (bb) *Preschooler* means a child who is three (3) years to four
2 and a half (4½) years of age.

3 (cc) *Provisional license* means a temporary license issued by
4 the Department at the time of a new application or renewal when the
5 facility *does not* meet all licensing laws, rules and regulations for the
6 duration *not* to exceed six (6) months.

7 (dd) *Related* means any of the following relationships by
8 blood, marriage or adoption: parent, grandparent, brother, sister,
9 stepparent, stepsister, uncle or aunt.

10 (ee) *Revocation* means immediate rescission of a license
11 when the facility exhibits a pattern of non-compliance or an imminent
12 concern arises that jeopardizes the well-being of children.

13 (ff) *School age* means a child who is between the age of four
14 and a half (4½) years and twelve (12) years old.

15 (gg) *Staff member* means any person that is employed for
16 compensation or otherwise by the child care facility, and is on the
17 premises while children are provided care. This includes, but is *not*
18 limited to: Early Childhood Director, Early Childhood Assistant
19 Director, Teachers, Early Childhood Providers, and Teachers' Aides.

20 (hh) *Suspension* means the deferment of a license for an issue
21 of non-compliance that may be temporary.

22 (ii) *Toddler* means a child who is thirteen (13) months
23 through thirty-six (36) months of age.

24 (jj) *Visitor* means a person visiting for a brief period of time,
25 and who follows the facility's policies and procedures.

1 (kk) *Volunteer* means a person offering services to a child
2 care facility without remuneration, *except* for reimbursable personal
3 expenses allowed by the early childhood providers.

4 **§1102.0. LICENSE TO OPERATE A CHILD CARE**
5 **FACILITY**

6 **§1102.1. License Required.**

7 (a) Any person, association, corporation, or partnership *shall* first
8 obtain a license from the Department to operate a child care facility,
9 providing services either with or without compensation.

10 (b) Any person, association, corporation, or partnership found to be
11 operating or conducting a child care facility without a license *shall* be found
12 in violation of these rules and regulations and must cease operations
13 immediately until compliance is met.

14 (c) Before a license is granted, the applicant must certify its
15 compliance with local officials according to all applicable health, safety,
16 fire, building, and sanitation regulations using a certification of compliance
17 form provided by the Department.

18 **§1102.2. Exclusions.**

19 (a) *No* license is required for the following:

20 (1) for the care by a relative, with or without compensation,
21 where the person furnishing such care does *not* regularly engage in
22 such activity, and does *not* advertise or hold him/herself out as
23 conducting a child care facility;

24 (2) for the care by parents who, on a mutually cooperative
25 basis, exchange one another's children;

26 (3) for the care of children in their own home;

27 (4) for the care of children in a hospital or clinic;

1 (5) for the care of children in the following educational-type
2 facilities:

3 (A) an accredited public or private educational
4 institution that operates primarily for educational purposes for
5 those children in grades kindergarten through twelfth (12th)
6 grade. In the event such accreditation does *not* include early
7 childhood classrooms for those children below kindergarten
8 (i.e., birth to five [5] years), then the educational institution
9 must comply with these rules and regulations and will fall
10 under the jurisdiction of these rules and regulations;

11 (B) a preschool classroom that is regulated by the
12 Guam Department of Education or the Administration for
13 Children and Families that adhere to federal guidelines and/or
14 mandates, such as the Head Start Performance Standards;

15 (C) an after-school care program operated directly by
16 an accredited public or private educational facility; or

17 (D) an after-school care program operated by another
18 entity under contract with the educational facility and the
19 curriculum content of the after-school program is approved by
20 the Guam Department of Education;

21 (6) for the temporary care of children in facilities operating
22 in a shopping center, fitness center, hotel, or establishment during any
23 part of a twenty-four (24) hour day, while parents or persons
24 responsible for the children are attending services or engaging in other
25 activities who remain and are on the premises, and care is *not* on a
26 regular basis;

1 (7) for the temporary care of children during any part of a
2 twenty-four (24) hour day while parents remain and are on the
3 premises participating in religious functions, and care is *not* on a
4 regular basis;

5 (8) for camps held on a seasonal basis where children are in
6 temporary care during any part of a twenty-four (24) hour day;

7 (9) for the care of children in child care facilities regulated
8 by the U.S. Department of Defense (i.e., Military Child Care
9 Facilities); and

10 (10) for skills programs and performing arts programs that
11 teaches a talent, abilities, expertise or proficiency that is *not* a part of a
12 school, child day care or after school daycare operation; and that the
13 program does *not* provide primary child care.

14 (b) The exclusions of this Section do *not* affect the authority of
15 state and federal governments to inspect any child care facilities and/or
16 private property for compliance.

17 (c) Child care facilities that meet the criteria for exclusions as
18 stated in this §1102.2 *shall* provide the Department with documentation,
19 such as the most current monitoring report, assuring that their facility has
20 passed inspection and/or requirements by their respective accrediting
21 institution or regulatory agency, as applicable.

22 **§1102.3. Application for License.**

23 (a) The application to obtain a license or the renewal of a license
24 *shall* be made on forms approved and supplied by the Department, and *shall*
25 be completed and submitted within a minimum of sixty (60) business days
26 prior to the proposed opening date or the date of expiration of the license.

27 **§1102.4. Application Packet.**

1 (a) The application packet *shall* include, but is *not* limited to, the
2 following:

3 (1) an application form, which *shall* include information on
4 owner or licensee. The following information *shall* be supplied to the
5 Division:

6 (A) the business name, mailing and physical address,
7 and telephone number of the child care facility;

8 (B) the name, date of birth, business mailing and
9 physical address, and business telephone number of the
10 person(s) bearing the responsibility for the child care facility;

11 (C) the name, date of birth, business mailing and
12 physical address, and business telephone number of the
13 person(s) having specific authority and responsibility for
14 overall administration and the services offered;

15 (D) the name and date of birth of the owner or
16 sponsoring agency (i.e., privately owned, church or agency
17 owned) of the child care facility; and

18 (E) other information as required by the Division;

19 (2) current copy of the “Rules and Regulations for Licensed
20 Child Care Facilities and Group Child Care Homes”;

21 (3) copy of applicable child care laws (i.e., Title 10 Guam
22 Code Annotated, Chapter 2, Article 4, Child Welfare Services Act);

23 (4) staffing pattern form;

24 (5) physician’s certification of examination form;

25 (6) notice of requirement for submission of documentation,
26 to include police and court clearances for each staff member in the
27 child care facility and a signed consent of release form for the

1 Department to conduct checks in local and national registries to
2 include, but *not* be limited to: the Child Abuse and Neglect Registry;
3 the Sex Offender Registry; and any other national background checks
4 as deemed necessary by the Department to ensure the staff's or
5 prospective staff's capacity to provide safe and constructive child
6 care. For Group Child Care Homes, all other adult members living in
7 the home must also comply with these clearances and background
8 checks.

9 (7) three (3) separate character reference letters for Early
10 Childhood Directors, for initial or denied applicants, or applicants
11 seeking license reinstatement of a suspended or revoked license; and

12 (8) certification of compliance form.

13 (b) The applicant *shall* provide and submit documents, *not* limited
14 to the following:

15 (1) early childhood education transcripts (for the Early
16 Childhood Director and Early Childhood Assistant Director);

17 (2) verification of early childhood training for staff (i.e.,
18 training certificates, transcripts);

19 (3) a copy of the child care facility's policies and procedures;

20 (4) a copy of the floor plan layout of the child care facility;

21 (5) a copy of the parent's handbook;

22 (6) resume for the Early Childhood Director and Early
23 Childhood Assistant Director;

24 (7) pediatric cardio pulmonary resuscitation (CPR) and
25 pediatric first aid certificates;

26 (8) a copy of each staff member's health certificate issued by
27 the Division of Environmental Health of this Department;

1 (9) most recent copy of the Job-Site Inspection report issued
2 by the Division of Environmental Health of this Department;

3 (10) a copy of the sanitary permit(s) for the child care facility
4 upon issuance by the Division of Environmental Health of this
5 Department; and

6 (11) a copy of immunization records for children enrolled.

7 (c) At *no* time shall an incomplete application package (for new,
8 renewal, or amendment of licenses) be received by any staff of the
9 Department.

10 (d) Applicants *shall* seek and comply with required applicable rules
11 and regulations concerning fire, building, sanitation, plumbing, electrical,
12 mechanical and zoning provided by the appropriate personnel from the
13 Department's Division of Environmental Health, the Guam Fire Department,
14 the Department of Public Works, the Department of Land Management, and
15 the Department of Revenue and Taxation.

16 (e) Applicants *shall* maintain accurate records of all information
17 and documents submitted to the Department which *shall* be readily available
18 for review by the Department upon request during inspection.

19 (f) New applicants *shall* be responsible for ensuring that all
20 documents and compliance reports, in addition to the application packet
21 described in this §1102.4 are submitted to the Department.

22 (g) Renewal applicants *shall* submit all documents and compliance
23 reports *no less than* sixty (60) business days prior to the expiration of the
24 license. Failure to do so may result in non-renewal of license pending
25 submission of required documents and closure of operation upon expiration
26 of current license.

1 (h) The Department *shall* conduct a licensing evaluation only after
2 receiving a completed application, and all required documents and reports,
3 to allow sufficient time of thirty (30) days for the licensing worker to
4 conduct inspections and reviews and complete a written report.

5 **§1102.5. General Information Requirements.**

6 (a) Admission procedures *shall* require that sufficient information
7 and instruction from the parents or guardians be furnished to enable the staff
8 members to make decisions or act on behalf of the child.

9 The child care facility *shall* require a completed application with at
10 least one (1) parent's or guardian's signature for each child to be kept on
11 file. Prior to admission of a child to a child care facility, the licensee *shall*
12 obtain in writing from the child's parents or guardians the following
13 information:

14 (1) completed application form for each child and a copy of
15 child's birth certificate and a current photo;

16 (2) the child's full legal name, birth date, ethnic background,
17 primary language spoken, current mailing and physical addresses, and
18 preferred names;

19 (3) the name and physical and mailing addresses of the
20 parents or guardians who are legally responsible for the child;

21 (4) telephone numbers or instructions as to how the parents
22 or guardians may be reached during the hours the child is in the child
23 care facility;

24 (5) to the extent possible, the names, mailing and physical
25 addresses, and telephone numbers of three (3) person(s) who *shall*
26 assume responsibility for the child if for some reason the parents or
27 guardians cannot be reached immediately in an emergency;

- 1 (6) name, clinic, and telephone number of child's physician;
- 2 (7) written authorization for emergency care, including
- 3 provision of health insurance information;
- 4 (8) child health report, that includes the child's
- 5 immunization record, and other pertinent information regarding the
- 6 health of the child (i.e., last physical examination report, TB test);
- 7 (9) the child's parents' or guardians' current place of
- 8 employment, address and phone number;
- 9 (10) plan for health care in case of an emergency (i.e.,
- 10 insurance provider, insurance number, doctor);
- 11 (11) authorization for medical treatment in case of an
- 12 emergency when parent or guardian cannot be contacted;
- 13 (12) date of enrollment in child care facility;
- 14 (13) written medical reports and health information *shall* be
- 15 on file for each child, including a report of an annual physical
- 16 examination, up-to-date immunization records, pertinent information
- 17 regarding any particular health problems, or any specific instructions
- 18 regarding care or feeding for the child. These records *shall* be kept
- 19 confidential, and information provided only to the Early Childhood
- 20 Director or the Early Childhood Director's authorized representatives
- 21 operating the facility or other staff with a need to know, in the event
- 22 of an emergency, or other staff with the written consent of the parents;
- 23 (A) conditional admissions may be granted, provided
- 24 that the following conditions are met:
- 25 (i) the date of each appointment and name of
- 26 the physician or health institution providing the physical

1 examination must be placed in the child’s health folder;
2 and

3 (ii) proof of medical examination and/or
4 administration of medical services are provided to the child care
5 facility;

6 (iii) failure to complete the immunizations and
7 clearances within one (1) month of enrollment *shall* result in
8 the expulsion of the child until such time as the child is in
9 compliance;

10 (14) eating and sleeping habits;

11 (15) toileting habits;

12 (16) allergies;

13 (17) fears and preferences;

14 (18) permission to administer medications, indicating
15 frequency and dosage, must be submitted in writing by
16 parents/guardians; and

17 (19) other information as required by the Division.

18 (b) The child care facility *shall* conduct a personal interview with
19 the parent or guardian to verify other pertinent information provided on the
20 child’s overall behavior and to acquaint the parent or guardian with the child
21 care facility’s policies and procedures.

22 (c) The child care facility *shall* secure written permission from at
23 least one (1) parent or guardian before taking children on excursions out of
24 the facility.

25 (d) The child care facility *shall* require a “Parent/Guardian
26 Authorization Form to Pick-Up Child” for each child and keep it current and
27 on file.

1 (e) Information pertaining to an individual child or parents or
2 guardians of the child *shall not* be disclosed to persons other than the Early
3 Childhood Director or authorized staff members, *unless* the parents or
4 guardians of the child submit a signed consent form granting written
5 permission for the disclosure, or when an emergency arises necessitating
6 release of the information.

7 (f) The parents or guardians *shall* be informed in writing of the
8 child care facility's policy regarding disclosure of information.

9 **§1102.6. Issuance of License.**

10 (a) Upon completion of examination and satisfaction that the
11 licensee and the child care facility has reasonably met all qualifications and
12 standards prescribed for the specific category of child care facility, the
13 Department *shall* issue a license.

14 (b) The license *shall* clearly state:

- 15 (1) the business name of the child care facility;
16 (2) the name(s) of the owner(s);
17 (3) the type of license issued;
18 (4) the category of the child care facility;
19 (5) the mailing address and physical location of the child
20 care facility;
21 (6) contact telephone number(s);
22 (7) the age and gender of children to be served;
23 (8) the capacity of the child care facility;
24 (9) the issuance and expiration date of the license;
25 (10) the license number; and
26 (11) other conditions or limitations, as deemed necessary by
27 the Department for the license.

1 (c) The license is non-transferable and *shall* be valid *only* with
2 respect to the person, and physical location specified. It *shall* also be subject
3 to review when there is a significant change in operating policies that affects
4 the health, safety, and care of children and any changes in §1102.6(b) above.

5 (d) The Department *shall* issue the following types of licenses:

6 (1) **License.** A license *shall* be issued to a facility which is
7 found to be in conformity with child care rules and regulations.

8 (2) **Provisional License.** A provisional license *shall* be
9 issued to a newly established or existing child care facility when the
10 facility does *not* meet all licensing laws, rules and regulations. The
11 facility must conform to the requirements on or before six (6) months
12 for a license to be issued. In the event that the conditions are *not* met
13 by the expiration date of the provisional license, the license *shall* be
14 revoked, and the operations of the child care facility *shall* cease
15 immediately.

16 **§1102.7. Effective Date of License.**

17 (a) The effective date of a license *shall* be as follows:

18 (1) **License.**

19 (A) A license *shall* expire *no later than* two (2) years
20 after the date of issuance.

21 (B) When a license is issued after a provisional
22 license, the expiration date of the license *shall* be two (2) years
23 from the date of issuance of the provisional license.

24 (C) The license *shall* be renewed *only* upon
25 satisfactorily meeting the requirements for application, and the
26 Department's approval.

27 (2) **Provisional License.**

1 The expiration date of a provisional license may vary, as
2 determined by the Director, based on a reasonable time for
3 compliance with these rules and regulations, and *shall not* exceed six
4 (6) months from the date of issuance.

5 **§1102.8. Changes to Operation of the Child Care Facility or**
6 **Group Child Care Home.**

7 (a) The licensee must notify the Division in writing within twenty-
8 four (24) hours or by the next working day, whichever comes first, of any
9 significant changes planned in the operation of the child care facility,
10 including services and staffing that directly or indirectly affects the
11 operation of the program. *No* changes shall be made *unless* approved by the
12 Division and all requirements for changes have been met as determined by
13 the Department. If the change affects the continued operation of the child
14 care facility, then necessary corrective action must be completed within the
15 prescribed timeframe to come into compliance or sooner as determined by
16 the Director. Significant changes include, but are *not* limited to, the
17 following: relocation of the child care facility; renovation to existing
18 structure; increase/decrease in child capacity; changes in staffing pattern;
19 changes in policies and procedures; changes in ownership; changes in the
20 name of the business operation; and changes to facility layout. Such
21 changes *shall* be taken into consideration at the discretion of the Department
22 to determine status of the license for continued or discontinued operation of
23 services upon meeting requirements and qualifications in accordance to
24 these rules and regulations as deemed necessary.

25 **§1102.9. Advertising.**

1 (a) A child care facility licensed by the Department may publish
2 advertisements of the services for which it is specifically licensed. All
3 advertisements *shall* include the child care facility's license number.

4 (b) All child care facilities that are required to be licensed and have
5 failed to do so are prohibited from advertising such services.

6 **§1102.10. Displaying License.** The license *shall* be displayed at
7 the child care facility in a prominent and conspicuous location as designated
8 by the Director to be viewed by the public at all times.

9 **§1102.11. Right of Entry, Inspection and Investigation.**

10 (a) In exercising its authority to license child care facilities, the
11 Department's designated personnel *shall* have the right of entry, inspection
12 and investigation.

13 (b) The Division *shall* conduct inspections and investigation to
14 ensure compliance with these rules and regulations and to ensure the quality
15 of care of children in child care facilities.

16 (c) The Division *shall* review the qualifications of all staff
17 members, review written policies and program provisions, and conduct
18 inspections of the child care facility.

19 (d) In the event of a complaint or reason to believe that an
20 unlicensed child care facility operation is being conducted, authorized
21 representatives of the Department *shall* have the right to enter private
22 property to verify and validate the allegations. The Guam Police
23 Department *shall* render assistance to the Department in these cases, as
24 needed.

25 (e) Authorized representatives of the Department *shall* be
26 authorized to visit a child care facility at any time during the hours of child

1 care operation for purposes of observing, monitoring and inspecting the
2 facilities, activities, staffing and other aspects of the child care facility.

3 (f) The licensee *shall* cooperate with the Department by providing
4 access to its facilities, records, staff, and children in care. Failure to comply
5 with reasonable requests may constitute grounds for denial, suspension or
6 revocation of the license.

7 **§1102.12. Inspection Frequency.** An inspection of a child care
8 facility *shall* be conducted *at least* once every twelve (12) months.
9 Additional inspections *shall* be conducted as often as necessary for the
10 enforcement of these rules and regulations.

11 **§1102.13. Report of Inspections.**

12 (a) Whenever an inspection of a child care facility is made,
13 identified deficiencies *shall* be recorded on the inspection report as approved
14 by the Director or his/her authorized representative. The inspection report
15 *shall* summarize the requirements of these rules and regulations. Inspection
16 remarks *shall* be written to reference, by section number, the section
17 violated; *shall* state the correction to be made, indicating the time period(s)
18 for correction, which *shall* be reasonable depending on the nature of the non-
19 compliance; and the time required for correction.

20 (b) A copy of the inspection report *shall* be furnished to the person
21 in charge of the child care facility at the conclusion of the inspection.

22 (c) The inspection report is a public document that *shall* be made
23 available for public disclosure to any person who requests the documents
24 pursuant to §1113.1.

25 **§1102.14. Posting.** Copies of the most current inspection report
26 *shall* be posted adjacent to the license in a prominent and conspicuous

1 location as designated by the Director, or the Director's authorized
2 representative, to be viewed by the public at all times.

3 **§1102.15. License Fees.** The Department *shall* charge non-
4 refundable fees as prescribed by the Department for the following
5 (Appendix C):

- 6 (a) New License
- 7 (b) Renewal License
- 8 (c) Duplicate License
- 9 (d) Amended License
- 10 (e) Provisional License (New or Renewal)

11 Fee schedule amendments *shall* be promulgated pursuant to Article 3,
12 Rule-Making Procedures, Chapter 9, Title 5, Guam Code Annotated.

13 **§1103.0. ORGANIZATION**

14 **§1103.1. General.**

15 (a) Each licensee which is a person, partnership, corporation,
16 limited liability corporation, limited liability partnership, or association *shall*
17 be organized according to its legal status as required by local law and
18 applicable rules and regulations.

19 (b) There *shall* be an internal structure which provides for an
20 appropriate governing authority which is:

21 (1) responsible for the development and enforcement of
22 operating policies, procedures of child care staff employment,
23 maintain adequate financial resources for the satisfactory care of
24 children, and the total organization of child care services; and

25 (2) located so as to be familiar with, and accountable for, all
26 aspects of the operation of the child care facility for and reasonably
27 accessible to the Division.

1 **§1104.0. HEALTH AND SAFETY**

2 **§1104.1. General.** The requirements for sanitation, health and
3 safety *shall* be adopted and in compliance with the Division of
4 Environmental Health, Department of Public Health and Social Services'
5 applicable mandates and rules and regulations pertaining to child care
6 facilities.

7 (a) *No* employer, owner, manager or person in charge or control,
8 shall permit any person to enter the premises, knowing such person to have,
9 or having reason to believe that he has, a disease in communicable form as
10 set forth in Chapter 4 of this Title, or is a carrier of such disease; and *no*
11 person shall work in a child care facility, whether in his own or another's
12 employ, knowing himself to have, or having reason to believe that he has,
13 any such disease. If an employer, owner, manager or person in charge or
14 control suspects that any employee has any such disease in communicable
15 form or is a carrier of such disease, he *shall* notify the Director immediately.
16 Persons with cuts or sores *shall not* be allowed to handle food that may
17 become contaminated by such handling. A placard containing the provisions
18 of this Section *shall* be posted in a place where it will be seen by each
19 employee.

20 **§1105.0. PROGRAM REQUIREMENTS**

21 **§1105.1. General.**

22 (a) Child care facilities *shall* implement developmentally
23 appropriate practices. The Department has developed voluntary early
24 learning guidelines that facilities may use as a guide in developing and/or
25 adopting a developmentally appropriate curriculum. (Appendix B: The
26 *Guam Early Learning Guidelines for Young Children Birth to 36 Months*

1 and the *Guam Early Learning Guidelines for Young Children Ages Three to*
2 *Five*).

3 (b) Child care facilities that provide after school programs for older
4 children *shall* implement age-appropriate curriculum.

5 (c) The program *shall* promote building positive relationships
6 among children and adults to increase and/or maintain a sense of self-worth
7 and responsibility to a community.

8 (d) The program *shall* implement a curriculum that is in harmony
9 with goals that promote learning and development in the cognitive, social,
10 emotional, language, aesthetic and physical areas.

11 (e) The program *shall* promote effective teaching strategies within
12 its curriculum that reflect culture, language and developmental needs of
13 children to increase learning and development.

14 (f) The program *shall* have in place, different assessments, formal
15 or informal, that provide information on individual learning and
16 development to ensure appropriate instruction, intervention, and/or
17 evaluation that meet individual needs and program goals.

18 (g) The program *shall* promote health, safety, and nutrition where
19 children and adults are protected from illness and harm.

20 (h) The program *shall* employ staff with the knowledge, skills, and
21 abilities to foster children's learning and development and support families'
22 needs and interests.

23 (i) The program *shall* build partnerships with families to support
24 active involvement in their children's growth and development.

25 (j) The program *shall* connect with community resources to
26 support program goals, such as health, curriculum, transitions, diversity, and
27 inclusion.

1 (k) The program *shall* have well-maintained indoor and outdoor
2 physical environments that are appropriate, safe, and accessible.

3 (l) The program *shall* have well-managed policies and procedures
4 promoting a system where children, families, and staff receive high-quality
5 experiences.

6 (m) The Early Childhood Director *shall* seek authorization from the
7 parent or guardian of a child who has an Individualized Family Service Plan
8 or Individualized Education Plan to assist in meeting the developmental and
9 educational needs of a child with a disability.

10 **§1106.0. STAFF TO CHILD RATIO**

11 **§1106.1. General.**

12 (a) The number of children per staff member *shall not* exceed:

Age of Child	Child:Staff Ratio	Effective Date of Compliance For Existing Child Care Facilities
Birth to 12 months	4:1	January 1, 2013
13 months to 2 years	7:1	January 1, 2013
13 months to 2 years	6:1	January 1, 2014
25 months to 3 years	10:1	January 1, 2013
37 months to 4 years	15:1	January 1, 2013
4 years and up	20:1	January 1, 2013

13 (b) Other hired staff members that *do not* provide direct care and
14 education to children *shall not* be counted under the staff to child ratio (i.e.
15 cooks, maintenance, and housekeeping personnel).

16 (c) Early Childhood Directors are *not* counted in the child to staff
17 ratio.

18 (d) *No* child shall be left without adult supervision at any time. The
19 staff to child ratio *shall* be maintained during all hours of operation. Staff

1 members *shall* be within sight and sound of each child in the child care
2 facility at all times. Staff members who provide direct care and education to
3 children *shall not* engage in other activities while performing their regular
4 duties, *unless* used for educational purposes (e.g. light housekeeping duties).

5 (e) During nap time, the staff to child ratio must be maintained and
6 physically present in the same space as the children's sleeping area.

7 **§1106.2. Existing Child Care Facilities.** All existing child care
8 facilities currently in operation *shall* be required to come into compliance
9 with §1106.1 on the effective dates of compliance as stated in §1106.1(a).

10 **§1106.3. New Child Care Facilities.** A new child care facility is
11 any person or entity that is issued a new license to operate a child care
12 facility after the promulgation of these rules and regulations. A new child
13 care facility *shall* be required to come into compliance with §1106.1 upon
14 issuance of a license to operate, and the effective dates of compliance
15 stipulated in §1106.1(a) are applicable to the new licensee.

16 **§1107.0. ADMISSIONS**

17 **§1107.1. General.**

18 (a) Operators of child care facilities *shall* provide appropriate care
19 to help the child grow and develop physically, mentally, socially,
20 emotionally, and spiritually at his or her own pace, ensuring the child's
21 overall welfare.

22 **§1107.2. Illness and Communicable Disease Control.**

23 (a) A general health screening and inspection *shall* be conducted
24 daily on each child as soon as possible after the child enters the child care
25 facility and whenever a change occurs while that child is in care.
26 Information on each child *shall* be gathered by completing the health
27 screening and inspection, by inquiring with the child's parents, and when

1 possible, through a conversation with the child. A record of any and all
2 concerns *shall* be documented in writing. The health screening and
3 inspection *shall* address:

4 (1) observed changes in behavior or appearance from
5 behaviors observed during the previous day's attendance; and

6 (2) other signs or symptoms of illness (such as fever,
7 drainage from eyes, vomiting, diarrhea, etc.)

8 (b) **Isolation Area.** Each child care facility *shall* have a designated
9 isolation area for a child who becomes ill at the facility. Such area *shall* be
10 adequately ventilated and equipped with a bed, mat, or cot and materials that
11 can be easily sanitized. Linens and disposables *shall* be changed after each
12 use with used linens and disposables contained in a closed container in the
13 isolation area until it can be cleaned or disposed of properly.

14 (c) Any child showing signs of an infectious illness must be sent to
15 the isolation area to be kept separate and apart from the other children. The
16 parent or guardian must be notified immediately to arrange alternative
17 measures for the child's care. A staff member or an available responsible
18 adult *shall* remain with the child at all times.

19 (d) The rules and regulations of the Department on communicable
20 diseases *shall* be followed where children show symptoms of communicable
21 diseases. The child care facility *shall* post a communicable disease placard
22 subject to the provisions of §2414 of Title 10 GCA, Chapter 2, Article 4 on
23 communicable diseases.

24 (e) Children who have been determined to have an infectious
25 illness or communicable disease *shall not* return to the child care facility
26 without medical authorization.

1 (f) A child may be excluded from the child care facility (i.e. sent
2 home) as soon as possible if the child exhibits any condition or illness as
3 listed in the current communicable disease report, or illnesses as
4 recommended and listed in guidelines developed by the American Academy
5 of Pediatrics for exclusion of children from the child care facility.
6 (www.aap.org)

7 **§1107.3. Immunizations.**

8 (a) All children attending a child care facility *shall* receive
9 immunizations according to the Department's requirements in conformity
10 with the Advisory Committee on Immunization Practices (ACIP), U.S.
11 Centers for Disease Control and Prevention (CDC), Department of Health
12 and Human Services, and the American Academy of Pediatrics (AAP),
13 *unless* excluded from the immunization requirements due to religious
14 exemptions (as approved by the Department) or medical contraindications
15 (as certified by a Guam licensed medical physician). (See Appendix D for
16 Recommended Immunization Schedules)

17 (b) Exemption from immunization for religious belief *shall* be
18 documented by a written, signed and dated statement from the child's parent
19 or guardian, that such vaccination or immunization would be against their
20 religious belief and would *not* constitute a contagious health risk for the
21 public at large, as certified by the Director. (P.L. 24-154, §3322.a.)

22 (c) Exemption from immunization for any medical reason *shall* be
23 documented by a written, signed, and dated statement by a Guam licensed
24 medical physician that said child should be exempt from this Section where
25 such medical contraindication to his or her receiving a specific vaccine
26 exists. (P.L. 24-154, §3322.a.) The child care facility has the right to

1 exclude children who do *not* meet the immunization requirements as stated
2 under Subsection (a) of this Section.

3 (d) Original statements (not copies) *shall* be kept in the child's
4 record at the Bureau of Communicable Disease Control of the Department
5 for compliance purposes. A copy of the certificate for medical and religious
6 exemptions *shall* be included in the child's record in the facility.

7 (e) Child care facilities *shall* require parents or guardians to ensure
8 their children receive all follow-up immunizations needed to complete the
9 recommended series. A copy of the immunization records *shall* be filed in
10 the child's record at the Bureau of Communicable Disease Control of the
11 Department.

12 (f) Parents or guardians *shall* be given a grace period, *not* to
13 exceed thirty (30) calendar days from the last assessment of the child's
14 immunization record, to obtain required immunization(s) in the
15 recommended series.

16 **§1107.4. Testing for Tuberculosis.** *No* child shall be permitted to
17 attend a child care facility *unless* they have on file with the Early Childhood
18 Director of the child care facility a report of a Tuberculosis (TB) Skin Test
19 result.

20 (a) If the child is entering from the United States (its states or
21 territories), such test must have been conducted within one (1) year prior to
22 enrollment. If the child is entering from an area other than the United States
23 (its states or territories), such test must have been conducted within six (6)
24 months prior to enrollment.

25 (b) If a child has had a positive TB Skin Test, a Certificate of TB
26 Evaluation must be obtained from the Department. If this Certificate
27 indicates that the child is TB contagious, the child *shall* be permitted

1 entrance to the child care facility *only* after he or she is certified as non-
2 contagious by the Department.

3 **§1107.5. CPR and First Aid.**

4 (a) **CPR.** *At least two (2) staff involved in providing direct care*
5 *and education of children shall complete and maintain certification*
6 *requirements in pediatric first aid, and safety and management of blocked*
7 *airway and rescue breathing, including cardio pulmonary resuscitation*
8 *(CPR). At least one (1) certified staff shall be on the premises at all times*
9 *children are in their care.*

10 (b) **First Aid Kit.** *At least one (1) first aid kit containing materials*
11 *to administer first aid must be maintained on the premises of all child care*
12 *facilities at all times and wherever children are in care, including field trips*
13 *and outings away from the facility. A complete first aid kit must also be*
14 *present in vehicles used in the transportation of children during field trips*
15 *and outings away from the facility.*

16 (1) Each kit *shall* be in a closed container and labeled “First
17 Aid.”

18 (2) The kits *shall* be accessible to the staff members at all
19 times and kept out of the reach of children.

20 (3) Each first aid kit *shall* be replenished and updated on a
21 regular basis. Contents with elapsed expiration dates *shall* be
22 discarded in a proper manner.

23 **§1107.6. Medication.** *No medication shall be given without the*
24 *signed consent of a parent, and prescription drugs shall be given only when*
25 *prescribed for a child by a licensed physician.*

26 (a) Prescription and non-prescription medication brought to
27 the child care facility by the parent or guardian *shall*:

- 1 (1) be in the original container;
- 2 (2) be properly labeled;
- 3 (3) be dispensed according to written directions on the
- 4 prescription label or printed manufacturer's label;
- 5 (4) be stored separately and locked out of children's
- 6 reach; and
- 7 (5) be stored at the proper temperature as required by
- 8 the manufacturer.

9 (b) Prescription medication must have a label stating the
10 name of the physician, the child's name, the name of the medication,
11 and medication directions.

12 (c) For the purposes of dispensing non-prescription
13 medication that is *not* brought in by the parent, in the event of an
14 emergency non-prescription medication can *only* be dispensed if the
15 facility has prior written authorization from the parent or guardian to
16 do so. Any medication dispensed under these conditions must be
17 documented in the child's file, and the parent or guardian must be
18 notified on the day of occurrence.

19 (d) If the parent or guardian notifies the child care facility of
20 any known allergies to medication, written documentation must be
21 maintained in the child's file, must be shared with the staff, and must
22 be posted with the stored medication.

23 (e) Any medication administered by any staff of the child
24 care facility *shall* be documented and recorded in a medication
25 administration log.

26 **1107.7. Food and Nutrition.**

27 (a) **Food and Nutrition Policies and Plans.**

1 (1) The facility *shall* have a food handling, feeding, and
2 nutrition plan that addresses the following items and delegates
3 responsibility for each:

4 (A) food handling, preparation, and service;

5 (B) staffing; and

6 (C) nutrition education for parents, staff, and children.

7 **(b) Meals Prepared and/or Served On-Site.**

8 (1) A child care facility that prepares and cooks meals for
9 children *shall* provide adequate nutritious food appropriate to the age
10 of the child at normal meal time intervals, and *shall* follow the U.S.
11 Department of Agriculture's (U.S.D.A.) Food and Nutrition
12 Guidelines and Food Guide Pyramid for Young Children (Appendix
13 E) based on the latest recommendations adopted by U.S.D.A. For
14 current and updated information on nutrition guidelines recommended
15 by the U.S.D.A., please refer to their website at www.usda.gov.

16 (2) Meal and snack menus *shall* be planned, written and
17 posted at the beginning of each week. Menus *shall* be dated and
18 posted in the food service area and in a conspicuous area easily
19 accessible to parents or guardians. Any menu substitution *shall* be
20 noted on the menu.

21 (c) A child care facility where parents or guardians provide meals
22 for their children should promote an understanding of the importance
23 of nutritious meals and snacks, as recommended by the U.S.D.A.
24 Food and Nutrition Guidelines.

25 (d) If a special diet is required for a child by a physician, a copy of
26 the physician's order, a copy of the diet and a sample meal plan for
27 the special diet *shall* be maintained in the child's file. If the parent or

1 guardian notifies the child care facility of any known food allergies,
2 written documentation must be maintained in the child's file. Special
3 food restrictions must be shared with the staff, and must be posted in a
4 conspicuous location in the kitchen area to serve as a reminder for
5 staff members.

6 (e) **Food Service.**

7 (1) Children *shall* be supervised during all meal times. All
8 food *shall* be served in individual containers for each child.

9 (2) Infants *shall* be fed by a staff member, and at *no* time
10 shall propped bottles be permitted when feeding infants. There *shall*
11 be *no* automatic feeding devices *unless* medically prescribed. All
12 bottles *shall* be individually labeled with the child's name.

13 (3) Heated foods and bottles must be tested before feeding to
14 ensure heat is evenly distributed, and to prevent injury to children.

15 (4) Child care facilities *shall* provide sufficient seating so
16 that children are seated at tables for meals.

17 (5) Food *shall not* be used as a reward or as punishment.

18 **§1108.0. MATERIALS AND EQUIPMENT**

19 **§1108.1. General.**

20 (a) The selection, quantity, arrangement and use of available
21 materials and equipment *shall* be age-appropriate, durable, meet the
22 recommendations of the U.S. Consumer Product Safety Commission
23 (CPSC), including the latest version of the CPSC *Handbook for*
24 *Public Playground Safety* (Appendix F), and meet the
25 recommendations of the Americans with Disabilities Act (ADA) for
26 all children, including children with special needs.

1 The DPHSS *shall* review Appendix F and develop rules and
2 regulations based upon the U.S. Consumer Product Safety
3 Commission Handbook for Public Playground Safety which should be
4 applicable for Guam, within one hundred twenty (120) days of the
5 enactment of this Act.

6 (b) The rules and regulations *shall* be promulgated pursuant to the
7 AAA rule-making procedures.

8 (c) The materials and equipment *shall*:

9 (1) provide opportunities for indoor or outdoor play,
10 exploration, expression, experimentation and discovery;

11 (2) provide opportunities for learning concepts and skills in
12 different developmental domains;

13 (3) represent the diversity of children, families, culture, age,
14 gender, language and abilities;

15 (4) provide safe, but challenging learning opportunities
16 where problem solving is practiced; and

17 (5) support the curriculum, meet the goals and objectives of
18 the program, and foster desired outcomes for children.

19 **§1108.2. Storage Spaces.**

20 (a) Storage spaces for individual storage of children's clothing and
21 personal belongings *shall* be available and labeled.

22 (b) Storage spaces for accessible play materials and equipment
23 used by the children *shall* be available.

24 (c) Storage spaces for other equipment, materials, and supplies used
25 by staff *shall* be available, but secure and out of children's reach.

1 **§1108.3. Sleeping Equipment and Bedding.** The following
2 sleeping equipment *shall* be safe, sturdy, clean, age-appropriate and
3 available:

4 (a) an individual bed, cot, crib, sleeping bag, mat, or pad, for each
5 child who rests; and

6 (b) a clean sheet or cover to be used on the sleeping equipment for
7 each child.

8 **§1109.0. PERSONNEL**

9 **§1109.1. General.**

10 (a) There *shall* be a sufficient number of qualified staff to carry out
11 the program of the child care facility at all times.

12 (b) Child care facilities *shall* develop and record policies pertaining
13 to personnel practices.

14 (c) The child care facility *shall* ensure that all new employee hires,
15 including submission of clearance documents, are reported to the Division
16 prior to their employment.

17 **§1109.2. Information on Current Staff Members Inclusive of**
18 **Cooks and Maintenance Personnel.**

19 (a) The following information *shall* be supplied to the Division for
20 all staff members:

21 (1) name, date of birth, age, home address and telephone
22 number;

23 (2) education transcripts and/or Early Childhood Care and
24 Education (ECCE) certificate;

25 (3) work experience;

26 (4) physician's certification of examination form;

27 (5) health certificate(s);

- 1 (6) police and criminal court clearances;
- 2 (7) consent of release to perform a check of the Child Abuse
- 3 and Neglect Registry Clearance; and
- 4 (8) other information as requested by the Division.

5 (b) A listing of all practicum students and/or volunteers who serve

6 twenty (20) *or more* hours per week *shall* also be supplied to the Division.

7 **§1109.3. Responsibilities and Qualifications for Early**

8 **Childhood Director.**

9 (a) **Responsibilities of Early Childhood Director.**

10 (1) There *shall* be a responsible Early Childhood Director, or

11 their designee, in charge of the child care facility at all times during

12 their hours of operation. To be in charge means that the responsible

13 person is on the premises, and available to staff, parents or guardians,

14 and children. It precludes outside employment which interferes with

15 these duties.

16 (2) The Early Childhood Director *shall not* be a full-time

17 teacher or early childhood provider.

18 (3) The Early Childhood Director *shall* be responsible for the

19 overall administration of the child care facility's policies and

20 procedures.

21 (4) When the Early Childhood Director is required to be

22 absent temporarily from the child care facility, arrangements *shall* be

23 made for the Early Childhood Assistant Director, or a staff member

24 who is *at least* twenty-one (21) years of age and meets the

25 requirements of *no less than* an Early Childhood Lead Provider, to act

26 as a substitute for a maximum of one (1) month. After one (1) month,

1 the Early Childhood Director *shall* hire an Acting Director if
2 prolonged absence is necessary.

3 (b) **Qualifications of Early Childhood Director.** The
4 qualifications for the Early Childhood Director *shall* be as follows:

5 (1) The Early Childhood Director *shall* be *at least* twenty-
6 one (21) years of age.

7 (2) The Early Childhood Director *shall* have education and
8 experience which will provide the knowledge, skills, and attributes
9 and qualities necessary to carry out an effective program of quality
10 child care as set forth in these laws, rules and regulations.

11 (3) The minimum education and training requirement for an
12 Early Childhood Director is Level 3 Early Childhood Master
13 Provider/Early Childhood Director as indicated in Guam's Plan for
14 Professional Development. (See Appendix A).

15 **§1109.4. Responsibilities and Qualifications for Early**
16 **Childhood Assistant Director.**

17 (a) **Responsibilities of Early Childhood Assistant Director.** The
18 Early Childhood Assistant Director *shall* be responsible and work with or
19 alongside the Early Childhood Director to carry out the program of the
20 facility under the guidance of the Early Childhood Director.

21 (b) **Qualifications of Early Childhood Assistant Director.** The
22 Early Childhood Assistant Director *shall* meet the same minimum education
23 and training requirements as an Early Childhood Director as stated in
24 §1109.3(b)(3).

25 (1) The Early Childhood Assistant Director *shall* be *at least*
26 twenty-one (21) years of age.

1 **§1109.5. Requirements of Staff Members.** Each staff member
2 *shall* be qualified through training, experience, skills, and education, as
3 indicated in Guam’s Plan for Professional Development. (Appendix A).

4 (a) Educational requirements of staff members *shall* be as follows
5 (as referenced in Guam’s Plan for Professional Development):

6 (1) By 2014, twenty-five percent (25%) of early childhood
7 providers employed by the child care facility *shall* meet the
8 requirements of a Level 2 Early Childhood Lead Provider.

9 (b) All staff members *shall* have a physical examination from a
10 licensed physician indicating that the individual is in good health, and free
11 from highly contagious diseases and any disability which would limit his/her
12 ability to adequately care for children. This physical examination report
13 *shall* be renewed annually, and *shall* be kept on file in the facility.

14 (c) All staff members *shall* have a valid health certificate pursuant
15 to Title 10 GCA, Chapter 22, and applicable rules and regulations. These
16 documents *shall* be renewed annually, with copies prominently posted in the
17 facility as required. Each staff member must comply with having their
18 health certificate on their person at all times while working, as required by
19 applicable rules and regulations.

20 (d) Operators of child care facilities must obtain a valid sanitary
21 permit pursuant to Title 10 GCA, Chapter 21, and applicable rules and
22 regulations. This permit *shall* be renewed annually, and prominently posted
23 in the facility as required.

24 (e) The Early Childhood Director *shall* provide information on
25 workshops, seminars, training sessions or courses available to all staff
26 members to encourage staff growth and development.

1 (1) Training topics should include, but is *not* limited to, one
2 (1) or more of the following topical/competency areas (as referenced
3 in Guam’s Plan for Professional Development):

4 (A) Child Development Theory and Practical
5 Application;

6 (B) Healthy and Safe Environments;

7 (C) Adaptations and Modifications;

8 (D) Working with Families;

9 (E) Observation and Assessment; and

10 (F) Professional Conduct and Ethics.

11 (f) Volunteers and practicum students are required to have a valid
12 health certificate and physical examination prior to providing services.

13 (g) Licensees *shall* be responsible for ensuring that licensees and
14 all staff members are free of serious emotional problems which limit their
15 ability to care for children, and that they demonstrate evidence of the ability
16 to deal effectively with practical problems of daily living and of child care.

17 (h) Licensees and all staff members *shall* be of reputable and
18 responsible character, and *shall not* have a criminal history record,
19 employment history or background which poses a risk to children in their
20 care, such as the following:

21 (1) conviction of a crime involving violence, alcohol or drug
22 abuse, sex offense, offense involving children and any other
23 conviction, the circumstances of which indicate that the applicant or
24 employee may pose a danger to children;

25 (2) the type of criminal offense, when it occurred, and
26 evidence of rehabilitation may be considered in determining whether

1 the criminal history record poses a risk to the health, safety or well-
2 being of children in their care;

3 (3) an employment history indicating violence, alcohol or
4 drug abuse and any other violation of employer rule or policy, the
5 circumstances of which indicate that the applicant or employee may
6 pose a danger to children;

7 (4) documented history of an individual who was found to be
8 in non-compliance and violation of licensing laws, rules and
9 regulations, and failed to conform to standards; and

10 (5) background information which shows that the individual
11 has been identified as the substantiated perpetrator of child abuse or
12 neglect.

13 (i) Staff members directly responsible for the care and education of
14 children *shall* have the following minimum qualifications:

15 (1) be *at least* eighteen (18) years of age or older; and

16 (2) complete requirements for a Level 1 Initial Early
17 Childhood Provider within twelve (12) months of employment as
18 indicated in Guam's Plan for Professional Development.

19 (j) Staff members *shall* demonstrate that they have:

20 (1) the capacity to perform the duties required for the care
21 and education of children;

22 (2) the ability to respect the individual child's uniqueness
23 and level of adjustment into the child care facility; and

24 (3) the ability to work positively with children, co-workers
25 and parents, and deal effectively with practical problems of daily
26 living.

27 **§1110.0. GROUP CHILD CARE HOMES**

1 **§1110.1. Group Child Care Homes.**

2 (a) **Applicability.** All the rules and regulations of this Chapter are
3 applicable to Group Child Care Homes, except for §1109.3 ~ §1109.5, et
4 seq. All Group Child Care Homes *shall* comply with the following:

5 (1) **Requirements for Group Child Care Home Providers.**

6 The requirements for group child care home providers *shall* be as
7 follows:

8 (A) demonstrate and maintain the capacity to perform
9 the duties required for the care and education of children;

10 (B) demonstrate and maintain the ability to respect the
11 individual child's uniqueness and level of adjustment;

12 (C) demonstrate and maintain the ability to work
13 harmoniously with parents and other co-workers; and

14 (D) demonstrate and maintain an understanding of
15 developmentally appropriate practices in early childhood
16 education.

17 (2) **Qualifications of Group Child Care Home Providers.**

18 The qualifications for group child care home providers *shall* be as
19 follows:

20 (A) Child care providers *shall* be free of serious
21 emotional problems that interfere with their ability to care for
22 children, and must demonstrate evidence of ability to deal
23 effectively with practical problems of daily living, child care,
24 and work positively with children, co-workers and parents.

25 (B) Child care providers *shall* have the following
26 minimum qualifications:

1 (i) be *at least* twenty-one (21) years of age or
2 older (each additional provider in a group child care
3 home *shall* be *at least* eighteen [18] years of age);

4 (ii) receive fifteen (15) hours of annual training
5 in the areas of, but *not* limited to, health, safety, nutrition,
6 and child development; and

7 (iii) maintain certification in Pediatric CPR and
8 Pediatric First Aid.

9 (C) Child care providers in contact with children must
10 have a physical examination from a licensed physician
11 indicating that the individual is in good health, and free from
12 highly contagious diseases and any disability which would limit
13 his/her ability to care for children. This physical examination
14 report *shall* be renewed annually, and *shall* be kept on file in
15 the group home facility.

16 (D) Child care providers *shall* have a valid health
17 certificate pursuant to Title 10 GCA, Chapter 22, and applicable
18 rules and regulations. These documents *shall* be renewed
19 annually, and kept on file and/or prominently posted in the
20 facility as required.

21 (E) Child care providers, and all other adult members
22 in the home, *shall* obtain a Police Clearance, a Criminal Court
23 Clearance listing the types of criminal convictions, if any, and a
24 Clearance from the Child Abuse and Neglect, and Sex Offender
25 Registries.

26 **§1111.0. REPORTING REQUIREMENTS**

27 **§1111.1. Reporting Child Abuse and Neglect.**

1 (a) Pursuant to the Child Abuse and Neglect Reporting Act (Title
2 19 GCA, Chapter 13, Article 2 §13201), a person required to report
3 suspected child abuse or neglect is defined as: “Any person who in the
4 course of his or her employment, occupation, or practice of his or her
5 profession, comes into contact with children. Such persons shall report
6 when they have reason to suspect on the basis of their medical, professional,
7 or other training and experience that a child is an abused or neglected child.”

8 (b) No person may claim “privileged communication” as a basis for
9 his or her neglect or failure to report suspected child abuse or neglect, or to
10 provide the Division’s Child Protective Services Section, or the Guam Police
11 Department, with required information. Such privileges are specifically
12 abrogated with respect to reporting suspected child abuse or neglect and
13 providing information to the Department.

14 (c) The child care facility *shall* require each staff member to be
15 knowledgeable and informed of their individual mandatory responsibility to
16 report all incidents of child abuse or neglect to the Division’s Child
17 Protective Services Section accordingly.

18 (d) At the time of admission, the child care facility *shall* provide to
19 the child’s parent or guardian information that explains how to report
20 suspected child abuse or neglect, and that the facility is mandated to report
21 any suspected child abuse or neglect to the proper authorities.

22 **§1111.2. Reporting Licensing Complaints.**

23 The child care facility *shall* provide written information detailing the
24 steps to report any licensing, health, and safety violations against a child
25 care facility at the time of admission, to the child’s parent or guardian, and
26 to potential staff members prior to recruitment. The information must

1 include the name, mailing address, and telephone numbers of the Division's
2 Child Licensing Program.

3 **§1112.0. DISPLAY OF DOCUMENTS**

4 **§1112.1. General.** The following documents *shall* be posted in a
5 prominent and conspicuous location, as designated by the Director, to be
6 viewed by the public at all times in the child care facility:

- 7 (a) License to Operate a Child Care Facility;
- 8 (b) Sanitary Permit;
- 9 (c) Copy of Health Certificates;
- 10 (d) Daily Schedule;
- 11 (e) Fire Evacuation Plan;
- 12 (f) Fire Extinguisher Signs;
- 13 (g) Earthquake Preparedness Procedures;
- 14 (h) Exit Signs;
- 15 (i) Daily Menu (If applicable);
- 16 (j) Inspection reports conducted by the Department of Public
17 Health & Social Services, Guam Fire Department, Department of Public
18 Works, and Department of Land Management;
- 19 (k) Grading Placards issued by the Division of Environmental
20 Health;
- 21 (l) No Smoking Signs;
- 22 (m) First Aid Kit Signs;
- 23 (n) Communicable Disease Prevention Poster;
- 24 (o) Emergency phone numbers, to include, but *not* be limited to,
25 the fire department, the police, and emergency medical services, and be
26 placed conspicuously next to all operating phone lines; and

1 (p) Other emergency procedures established by the child care
2 facility.

3 **§1113.0. RECORDS OPEN TO THE PUBLIC**

4 **§1113.1. Public Documents.**

5 (a) The Division's licensing records are considered open records
6 and are available to the public.

7 (b) Responses to requests for records are conducted by the Division
8 in conformance with the guidelines of the Sunshine Reform Act of 1999
9 (Title 5 GCA, Chapter 10, Article 1).

10 (c) Exceptions are:

11 (1) the name and identifying information of someone who
12 reports an alleged violation of the laws, or rules and regulations, or
13 who make allegations during an investigation unrelated to the original
14 report;

15 (2) information identifying children's names;

16 (3) criminal history information;

17 (4) reports and records received from other agencies
18 including police, court clearances and child protection reports;

19 (5) certain confidential information from other agencies;

20 (6) personal references requested by the Division;

21 (7) scholastic records, health reports, physical, social or
22 psychological;

23 (8) information about pending court cases; and

24 (9) information about an abuse or neglect investigation that
25 has *not* been completed.

26 **§1114.0. TRANSPORTATION PROVISIONS**

1 **§1114.1. General.** When transportation is provided by a child
2 care facility, children *shall* be protected by adequate supervision, safety
3 precautions, and liability and medical insurance coverages, as follows:

4 (a) The vehicle and driver providing transportation *shall* be in
5 compliance with all relevant motor vehicle and traffic laws.

6 (b) During any field trip or excursion operated or planned by the
7 child care facility, the staff to child ratios as provided in §1106.1(a) *shall*
8 apply.

9 (c) Children *shall* be instructed in safe transportation conduct as
10 appropriate for age and stage of development.

11 (d) Infants, toddlers, and preschoolers transported in vehicles by
12 staff members, either to or from the child care facility, or for any program
13 activities, *shall* be properly secured in an age and size appropriate child
14 passenger restraint system, approved safety belts, or safety harnesses, which
15 meets federal motor vehicle safety standards and in accordance with the
16 manufacturer's operating instructions as mandated by Guam law.

17 (e) Children *shall not* be allowed to ride in the back of pick-up
18 trucks, or in jeeps or other open-air vehicles that are *not* fully enclosed.

19 (f) Children *shall* be supervised in the vehicles at all times.

20 **§1115.0. COMMUNICATION BETWEEN PARENTS AND**
21 **EARLY CHILDHOOD PROVIDERS**

22 **§1115.1. General.**

23 (a) Early childhood providers *shall* communicate and maintain an
24 open door policy with parents or guardians including, but *not* limited to, the
25 following information:

26 (1) information and instructions related to the child; and

1 (2) health, safety, child development, or behavior of the child
2 to the parents or guardians.

3 (b) Parents or guardians are encouraged to notify the child care
4 facility immediately of a concern which should be addressed immediately
5 and expect feedback from the child care facility in a timely manner, *no later*
6 *than* two (2) business days.

7 **§1116.0. PARENTAL ACCESSIBILITY**

8 **§1116.1. General.**

9 (a) During the hours of operation, a child care facility *shall* allow
10 access by parents or guardians having legal custody of a child in care to
11 those areas of the child care facility that is licensed for child care. This is to
12 allow parents or guardians the opportunity to observe their child and the
13 operation of the child care facility. Access to a child care facility by parents
14 or guardians with legal custody of children in care *does not* have to be
15 arranged in advance with the child care facility.

16 **§1116.2. Refraining from Releasing Children to Family.**

17 (a) If a parent or authorized person is found to be behaving in a
18 way that impairs that person's ability to care for the child (i.e., drunken
19 behavior, belligerent), or lacks suitable equipment (i.e., an appropriate child
20 passenger restraint system), the child care providers *shall* refrain from
21 releasing the child to the family. Child care providers *shall* contact
22 appropriate law enforcement agents, as needed.

23 **§1117.0. NON-DISCRIMINATION**

24 **§1117.1. General.** A child care facility *shall not* discriminate
25 against any person on the grounds of race, color, national origin, age, sex,
26 religion or disability in admission to, participation in, or receipt of the
27 services and benefits of any of its programs and activities, or in employment.

1 Furthermore, a child care facility *shall not* deny or provide for the access
2 and accommodation of persons with disabilities in compliance with the
3 Americans with Disabilities Act of 1990 (Title 42 United States Code,
4 Section 12101). Child care facilities *shall* also conform to any Guam laws
5 and applicable rules and regulations governing persons with disabilities and
6 other protected groups.

7 **§1118.0. DENIAL, SUSPENSION, OR REVOCATION OF**
8 **LICENSE**

9 **§1118.1. Denial, Suspension, or Revocation of License.**

10 (a) The Department may suspend any license to operate a child
11 care facility under, but *not* limited to, the following conditions:

12 (1) any environmental health violation under Title 10 of the
13 Guam Code Annotated, Chapters 20 through 40, and those applicable
14 rules and regulations. The Director has general supervision of
15 environmental health and *shall* be responsible for carrying out the
16 provisions of this Code;

17 (2) if the operation of the child care facility otherwise
18 constitutes a substantial or serious hazard to public health;

19 (3) if the applicant or licensee failed to comply with these
20 rules and regulations, the corrective action in the inspection report,
21 Notice of Adverse Action, and suspension;

22 (4) if the applicant or licensee failed to pay a fine after either
23 failing to appeal the assessment of a fine within the prescribed time or
24 after a hearing where assessment of a fine was upheld; or

25 (5) if the applicant or licensee submitted any misleading or
26 false statement or report required in these rules and regulations.

1 (b) The Department may deny or revoke any license to operate a
2 child care facility under, but *not* limited to, the following conditions:

3 (1) violating the provisions of §2408 of the Child Welfare
4 Services Act (Title 10 GCA, Chapter 2 Article 4);

5 (2) upon a substantial or serious violation under these rules
6 and regulations, which affects the health and safety of children in care
7 by a child care facility or by any of its employees;

8 (3) any substantiated charge of child abuse or neglect;

9 (4) the applicant or licensee submitted any misleading or
10 false statement or report required in these rules and regulations;

11 (5) the applicant or licensee refused to submit any report or
12 make available any records required under §1102.0 of these rules and
13 regulations;

14 (6) the applicant or licensee refused to admit, at a reasonable
15 time, any employee of the Department authorized by the Director to
16 investigate or inspect, in accordance with §1102.11 of these
17 regulations; or

18 (7) the applicant or licensee failed to obtain a license prior to
19 opening the child care facility.

20 **§1118.2. Effect.**

21 (a) Upon suspension or revocation, the licensee *shall* immediately
22 return the license to the Division, and the licensee *shall* immediately cease
23 all operations. The licensee must provide its roster of enrolled children and
24 emergency contact numbers to the Division's inspector, who *shall* ensure
25 that all measures are taken to contact the parents/guardians of all the
26 children to be picked up.

1 (b) Whenever a license is suspended, a provisional license may be
2 issued to resume operation. The child care facility must submit a corrective
3 action plan within the prescribed time frame to come into compliance.
4 When the child care facility submits documentation or all corrective actions
5 have been taken, the license will be upgraded back from its provisional
6 license to license status.

7 (c) When a licensee fails to come into compliance after being
8 issued a provisional license, the license *shall* be revoked. A licensee *shall*
9 *not* qualify for a license from the Department for one (1) year after a final
10 decision has been rendered to revoke the license. Thereafter, the licensee
11 *shall* be eligible to operate a child care facility *only* if compliance of these
12 rules and regulations can be demonstrated.

13 (d) The licensee *shall not* be eligible to operate a child care facility
14 if convicted of a crime against persons, and/or listed in the Child Abuse
15 Registry and/or the Sex Offender Registry as indicated in §1109.5 (h).

16 **§1118.3. Suspension in an Emergency.**

17 (a) The Department may suspend any license without a prior
18 hearing if failure of the licensee to comply with any these rules and
19 regulations results in an emergency situation which endangers the life,
20 health, or safety of the children or the staff present in the child care facility.
21 The licensee *shall* be notified of any such suspension of a license by written
22 notice that is either hand-delivered, mailed via first class mail, certified or
23 registered, return receipt requested, or delivered by courier requiring a
24 signed receipt.

25 (b) If the Department receives a request for a hearing within five
26 (5) business days following the licensee's receipt of such notice, a hearing

1 *shall* be held within ten (10) business days of the receipt of such request for
2 hearing. The suspension *shall* remain in effect pending such a hearing.

3 (c) The sole issue at the hearing *shall* be whether the Department
4 has reasonable cause to believe that the licensee's failure to comply with
5 these rules and regulations resulted in an emergency situation which
6 endangered the life, health, or safety of the children or the staff present in
7 the child care facility. If a report indicates that any abuse or neglect occurred
8 in a licensed child care facility or during participation in a licensed child
9 care facility related activity, it *shall* be prima facie evidence that an
10 emergency existed.

11 (d) The licensee *shall* notify the parents or guardians of all children
12 enrolled in the child care facility, and all funding agencies of any such
13 suspension of a license within two (2) business days of the receipt of notice
14 from the Department.

15 (e) Upon suspension, the licensee *shall* immediately return the
16 license to the Division and cease providing services.

17 **§1118.4. Follow-up to Enforcement Action.**

18 (a) Upon the expiration of the timeframe(s) prescribed in a
19 corrective action plan for compliance, inspection report, or notice of adverse
20 action, the Division staff will determine compliance by visiting the child
21 care facility or program, reviewing documents, and/or verifying compliance
22 through whatever other means the Division deems suitable.

23 (b) If a determination of non-compliance is made, the Division
24 *shall* request an additional corrective action plan or notice of adverse action.
25 The Department may, in addition to any of the actions listed above, levy an
26 administrative penalty; or deny, suspend or revoke a license.

1 (c) These rules and regulations *shall* in no way limit the
2 Department's authority to visit any child care facility subject to licensure or
3 approval by the Department to determine compliance with these rules and
4 regulations, *nor* do these regulations limit the Department's authority to
5 deny, suspend or revoke a license.

6 **§1119.0. RIGHT TO APPEAL**

7 **§1119.1. General.** Any child care facility receiving a notice
8 indicating that the Director has initiated an action to deny, suspend or revoke
9 its license *shall* result in the licensee being informed of its right to appeal
10 and the procedures to file an appeal. *Except* for a suspension in an
11 emergency as outlined in §1118.3 of these rules and regulations, a child care
12 facility affected by an adverse action may initiate an appeal by means of a
13 written request to the Department within ten (10) working days after the
14 licensee has been served by written notice that is either hand-delivered,
15 mailed via first class mail, certified or registered, return receipt requested, or
16 delivered by courier requiring a signed receipt. Failure to request within the
17 timeframe will constitute a waiver of right to a hearing.

18 **§1120.0. HEARING**

19 **§1120.1. General.**

20 (a) *Except* for a suspension in an emergency as outlined in §1118.3
21 of these rules and regulations, whenever a license is to be denied, suspended
22 or revoked, the licensee *shall* be notified in writing through a Notice of
23 Adverse Action by the Director ten (10) days *prior* to the effective date of
24 the agency's action to deny, suspend or revoke the license. An opportunity
25 for a hearing will also be provided upon service of the Notice of Adverse
26 Action for an administrative penalty. A child care facility may request for a

1 hearing on any actions taken of denial, suspension or revocation taken by the
2 agency.

3 (b) Upon receipt of a request for a hearing, the Director *shall*
4 arrange to hear the appeal of the child care facility within twenty (20)
5 working days following the receipt of the written request. The Director *shall*
6 make a final determination to repeal or stay any denial, suspension or
7 revocation described in §1118.1 upon the completion of a hearing.

8 (c) If *no* written request for a hearing is filed within ten (10)
9 working days of receipt of the notice, the Department's disciplinary action is
10 sustained as noted in the Notice of Adverse Action, and the child care
11 facility will be notified of the decision in writing.

12 **§1121.0. SERVING OF NOTICES**

13 **§1121.1. General.** A notice provided for in these rules and
14 regulations is properly served when it is delivered to the licensee or to the
15 person in charge of the child care facility, or when it is hand-delivered, or
16 mailed to the licensee via first class mail, certified or registered, return
17 receipt requested, or delivered by courier requiring a signed receipt to the
18 last known address of the licensee. A copy of the notice *shall* be filed in the
19 records of the Bureau of Social Services Administration, Division of Public
20 Welfare, Department of Public Health and Social Services.

21 **§1122.0. SEVERABILITY**

22 **§1122.1. General.** If any phrase, clause, sentence, section,
23 subsection, provision, or part of these rules and regulations or its
24 applicability to any person or circumstance, if for any reason is held to be
25 unconstitutional or invalid, the remaining portions of these rules and
26 regulations, or the application of these rules and regulations to other persons
27 or circumstances *shall not* be affected.

1 **§1123.0. CHILD CARE FUND**

2 **§1123.1. Child Care Revolving Fund; No Commingling.** As
3 provided pursuant to §2416 of Article 4 of Chapter 2, Division 1, Title 10,
4 Guam Code Annotated, there is created, separate and apart from other funds
5 of the government of Guam, a reserve fund known as the Child Care
6 Revolving Fund (the Fund). The Fund *shall not* be commingled with the
7 General Fund or any other funds of the government of Guam and *shall* be
8 deposited into a separate account.

9 **§1123.2. Expenditures From the Fund.** All proceeds from fees
10 and fines collected pursuant to these rules and regulations *shall* be deposited
11 into the Fund and *shall* be expended by the Department *solely* in support of
12 the functions of the Division of Public Welfare of the Department of Public
13 Health and Social Services, including, but *not* limited to: recruitment of
14 child care licensing staff; professional development; training; technical
15 assistance and tuition assistance for child care professionals and licensing
16 staff; and quality care and education of children. Any unexpended balance
17 of the Fund *shall* be carried over to the next fiscal year and *shall not*
18 decrease the local budget based on the fees and fines collected in this Fund
19 from the previous budget year.

20 (a) Funds *shall* be expended *solely* for the purposes provided for
21 pursuant to Article 4 of Chapter 2, Division 1, Title 10, Guam Code
22 Annotated, and these Rules.

23 (b) The Department *shall* report monthly and maintain full
24 compliance with all financial reporting requirements of the government of
25 Guam pursuant to applicable law. Reports *shall* be submitted to *I*

1 *Liheslaturan Guåhan* via the office of *I Maga'lahaen Guåhan* [Governor of
2 Guam].

3 **§1123.3. No Transfer Authority.** The money placed in the Fund
4 is *not* subject to any transfer authority of *I Maga'lahaen Guåhan* [Governor
5 of Guam].

6 **§1124.0. REVIEW**

7 **§1124.1. General.** The Department *shall* review and update these
8 regulations as needed, but in *no* event longer than five (5) years after the
9 date of the initial promulgation of these Rules and Regulations, and at a
10 minimum of every five (5) years thereafter.

11 The DPHSS *shall* review Appendix A page 8, positions 1, 2, and 3
12 and develop rules and regulations within one hundred twenty (120) days of
13 the enactment of this Act. The rules and regulations *shall* be promulgated
14 pursuant to the AAA rule-making procedures.”

MINA TRENTAI UNU NA LIHESLATURAN GUAHAN
2011 (FIRST) Regular Session

2011 FEB - 7
AM 11:30
FAMU

BILL NO. 70-31 (COR)

Introduced by:

D. G. RODRIGUEZ, JR.
ALINE A. YAMASHITA



AN ACT TO ESTABLISH THE ADMINISTRATIVE RULES AND REGULATIONS OF THE DEPARTMENT OF PUBLIC HEALTH & SOCIAL SERVICES RELATIVE TO CHILD CARE CENTERS AND GROUP CHILD CARE HOMES, UNDER ARTICLE 1 OF CHAPTER 1, DIVISION 1, TITLE 26, GUAM ADMINISTRATIVE RULES AND REGULATIONS, AND IN CONFORMANCE WITH ARTICLE 4 - CHILD WELFARE SERVICES ACT, CHAPTER 4, TITLE 10, GUAM CODE ANNOTATED.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent.

3 *I Liheslaturan Guahan* finds that the administrative rules and
4 regulations for Child Care Facilities are antiquated. The Department of
5 Public Health & Social Service is currently utilizing Social Services Rules
6 and Regulations No. 10 which were initially established pursuant to
7 Section 9120.7 of Chapter X, Government Code of Guam on December 12,
8 1972, as amended and promulgated pursuant to Executive Order 78-27 on
9 September 8, 1978. Though the amended rules and regulations went

1 through the public hearing process, the revised Standards “Social Services
2 Rules and Regulations No.10 were ultimately approved and promulgated
3 pursuant to Executive Order No. 1978-10, but not subsequently transmitted
4 to *I Liheslaturan Guahan*. Consequently, the current rules and regulations
5 being utilized have not been duly revised and fully promulgated for the
6 past thirty-three years.

7 *I Liheslaturan Guahan* finds that the proposed administrative rules and
8 regulations pursuant to this Act for Child Care Centers and Group Child
9 Care Homes, as provided and required pursuant to Article 4- Child
10 Welfare Services Act, of Chapter 4, Title 10, Guam Code Annotated (P.L.
11 11-99), is appropriate and necessary.

12 Further, *I Liheslaturan Guahan* takes due note that the Department of
13 Public Health & Social Services, in the development of the proposed
14 guidelines addressed herein, made a good faith effort to be inclusive of the
15 affected stakeholders in the child care industry. The proposed rules and
16 regulations is a work product which has to great extent incorporated
17 impute from stakeholders in the field -albeit perhaps without universal
18 approval - but with the widespread recognition that the existing rules are
19 antiquated and significant revision is necessary.

20 It is the intent of *I Liheslaturan Guahan* to provide for the initial
21 establishment of the administrative rules and regulations for Child Care
22 Centers and Group Child Care Homes.

23 Further, so as to insure that the rules adopted pursuant to this Act

1 remain pertinent to and consistent with the needs of the community, it is
2 the intent of *I Liheslaturan Guahan* to provide an authorization and mandate
3 for the Department of Public Health & Social Services to regularly review
4 the rules adopted pursuant to this Act, and as appropriate promulgate
5 amendments thereto pursuant to Article 3 - Rule Making Procedures, of
6 Chapter 9, Title 5, Guam Code Annotated.

7 **Section 2. Adoption of Rules.** Notwithstanding any other provision
8 of law, rule, regulation and Executive Order, the rules and regulations of
9 the Department of Public Health & Social Services for Child Care Centers
10 and Group Child Care Homes, and attached hereto as Exhibit "A", are
11 hereby adopted by *I Mina'Trenta Na Liheslaturan Guahan*, and shall be
12 codified under Article 1- Child Welfare Services Act, of Chapter 1, Division
13 1, Title 26, Guam Administrative Rules and Regulations.

14 **Section 3. Amendment of Rules.** The Department of Public Health
15 & Social Services *shall*, at a minimum of every five years, and pursuant to
16 Article 3- Rule Making Procedures, of Chapter 9, Title 5, Guam Code
17 Annotated, review and amend the administrative rules and regulations
18 adopted pursuant to Section 2 of this Act.

19 **Section 4. Effective Date.** The administrative rules and regulations
20 adopted pursuant to Section 2 of this Act shall become effective upon
21 enactment.

22

1 **Exhibit “A”**

2 **Title 26 Guam Administrative Rules and Regulations**

3 **Chapter 1**

4 **Article 1 - Child Welfare Services Act**

5 **RULES AND REGULATIONS FOR LICENSED**
6 **CHILD CARE CENTERS AND GROUP CHILD CARE HOMES**

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1 **Section 1101.0**

2 **GENERAL PROVISIONS**

3 **§1101.1 Purpose.** The purpose of these rules and regulations is to formulate
4 standards for licensed child care centers and group child care homes that will
5 protect and promote the welfare and positive development of children being served.

6 **§1101.2 Applicability.**

7 (a) These rules and regulations are applicable to the following child care
8 facilities, public and private: 1) Child Care Center and 2) Group Child Care Home.

9 (b) These rules and regulations do not apply to Group Family Home,
10 Family Child Care Home, Family Foster Home, and Residential Treatment Facility.

11 **§1101.3 Authority.** The Government Code of Guam authorizes the
12 Department to adopt rules and regulations for licensing all child care facilities, to
13 issue licenses, and to ensure that all provisions of §2407 of Title 10 GCA, Chapter
14 2, Article 4 (Public Law 11-99) regarding licensing are carried out. The
15 Department shall inspect all child care facilities as defined in §1101.5(g).

16 **§1101.4 Title.** These rules and regulations shall be known and may be cited as
17 the “Rules and Regulations for Licensed Child Care Centers and Group Child Care
18 Homes.”

19 **§1101.5 Definitions.** Wherever the following words appear in these rules and
20 regulations, they shall have the following definition:

21 (a) *APPEAL* means a written, signed and dated statement requesting

1 reconsideration or modification of a Departmental decision that negatively affects
2 the License of the child care facility. An appeal is made by the Licensee or by the
3 facility's legal entity.

4 (b) *CHILD* means a person under eighteen (18) years of age or a child
5 with a disability up to twenty-one (21) years of age.

6 (c) *CHILD CARE ASSISTANT* means any person that provides assistance
7 to the teacher who provides primary care for children.

8 (d) *CHILD CARE ASSISTANT DIRECTOR* means a person who assists
9 the Child Care Director in the management of a child care facility and/or who has
10 the responsibility to administer the facility and to develop the total program in the
11 absence of the Child Care Director.

12 (e) *CHILD CARE CENTER* means a facility which provides child care for
13 twelve (12) or more children during a portion of a twenty-four (24) hour day.

14 (f) *CHILD CARE DIRECTOR* means a person having responsibility in
15 the management and administration of the facility and to develop the total program.

16 (g) *CHILD CARE FACILITY* means any center or home licensed by the
17 Department to provide care, education, and supervision for a child for all or part of
18 the twenty-four (24) hour day, whether or not the facility is operated for profit, or
19 charges for the services it offers.

20 (h) *COOK* means any person who prepares meals for children enrolled in
21 a child care facility.

22 (i) *DEPARTMENT* means the Guam Department of Public Health and
23 Social Services.

24 (j) *DENIAL* means refusal by the Director to issue a License on a new or
25 renewal application.

26 (k) *DIRECTOR* means the Director of Public Health and Social Services
27 or his/her authorized representative.

1 (l) *DIVISION* means the Division of Public Welfare, Department of
2 Public Health and Social Services.

3 (m) *EARLY CHILDHOOD PROVIDER* means a person employed with
4 compensation and with knowledge, skills, and abilities in early childhood
5 education and is responsible for the physical well-being, direct care, health, safety,
6 supervision, and guidance of children in child care. Education and experience in
7 working with children birth to five differentiate the various levels of Initial, Lead
8 and Master Provider. (refer to Appendix A)

9 (n) *GROUP CHILD CARE HOME* means a home or facility which
10 provides child care for at least seven (7) and not more than twelve (12) children
11 during a portion of a twenty-four (24) hour day.

12 (o) *GUAM EARLY LEARNING GUIDELINES FOR YOUNG CHILDREN*
13 *BIRTH TO 36 MONTHS AND AGES THREE TO FIVE* means the voluntary early
14 learning guidelines of what young children birth to five years old should know and
15 be able to do. (Appendix B)

16 (p) *GUAM'S PLAN FOR PROFESSIONAL DEVELOPMENT* means the
17 early childhood education plan, as required by Executive Order 2004-14
18 (Appendix C) and part of Guam's Comprehensive Plan for the Care & Education
19 of Young Children. (Appendix A).

20 (q) *INDIVIDUALIZED EDUCATION PROGRAM* means the document,
21 commonly referred to as an IEP, describing the child's educational program as
22 required by the Guam Department of Education, Division of Special Education
23 under the Individuals with Disabilities Education Improvement Act of 2004
24 (IDEA), Part B to develop for every student with a disability who is found to meet
25 the federal and state requirements for special education, designed to provide the
26 child with a free and appropriate public education.

27 (r) *INDIVIDUALIZED FAMILY SERVICE PLAN* means the document,

1 commonly referred to as an IFSP, that identifies the child’s and family’s
2 individualized supports and early intervention services that will enhance the child’s
3 overall development, as required by the Guam Department of Education, Division
4 of Special Education under the Individuals with Disabilities Education
5 Improvement Act of 2004 (IDEA), Part C for infants and toddlers with disabilities
6 and their families.

7 (s) *INDIVIDUALS WITH DISABILITIES EDUCATION IMPROVEMENT*
8 *ACT OF 2004* means the United States federal law that governs how states and
9 public agencies provide early intervention, special education, and related services
10 to children with disabilities.

11 (t) *INFANT* means a child from birth thru 12 months of age.

12 (u) *LICENSE* means a License to Operate a Child Care Facility.

13 (v) *LICENSE TO OPERATE A CHILD CARE FACILITY* (hereafter
14 referred to as “License”) means the official document issued by the Department
15 authorizing the operation of a child care facility as defined under the terms of the
16 License. This is issued to a child care facility that has met compliance with the
17 minimum requirements as defined in the licensing laws, rules and regulations for
18 the duration of two (2) calendar years.

19 (w) *LICENSEE* means any entity that is issued a License by the
20 Department.

21 (x) *MAINTENANCE PERSONNEL* means any person who provides
22 general maintenance or upkeep of the child care facility.

23 (y) *PRACTICUM STUDENT* means any person officially enrolled in any
24 higher education institution as a student in education, nursing, psychology, social
25 work, early childhood, or related fields with approved practicum under supervision
26 by an instructor and who adheres to a child care center’s policies and procedures.

27 (z) *PRESCHOOLER* means a child who is 3 years to 5 years of age.

1 (aa) *PROVISIONAL LICENSE* means a temporary license issued by the
2 Department at the time of new application or renewal when the center does not
3 meet all licensing laws, rules and regulations for the duration not to exceed six (6)
4 months unless determined by the Director.

5 (bb) *REVOCAION* means immediate retraction of a License when the
6 center exhibits a pattern of non-compliance or an imminent concern arises that
7 jeopardizes the well-being of children.

8 (cc) *SCHOOL AGE* means a child who is between the ages of 5 years and
9 12 years.

10 (dd) *STAFF MEMBER* means any person that is employed for
11 compensation or otherwise by the child care facility and is on the premises while
12 children are provided care. This includes, but is not limited to: Child Care Director,
13 Child Care Assistant Director, Teachers, Early childhood providers, Teachers'
14 Aides, Cooks, and Maintenance Personnel.

15 (ee) *SUSPENSION* means the deferment of a license for an issue of non-
16 compliance that may be temporary.

17 (ff) *TODDLER* means a child who is 13 months thru 36 months of age.

18 (gg) *VISITOR* means a person visiting for a brief period of time and who
19 follows the center's policies and procedures.

20 (hh) *VOLUNTEER* means a person offering services to a child care facility
21 without remuneration, except for a reimbursable personal expenses allowed by the
22 early childhood providers.

23 **Section 1102.0**
24 **LICENSE TO OPERATE A CHILD CARE FACILITY**

1 **§1102.1 License Required.**

2 (a) Any person, association, corporation, or partnership shall first obtain a
3 License from the Department to operate a child care facility, providing services
4 either with or without compensation.

5 (b) Any person, association, corporation, or partnership found to be
6 operating or conducting a child care facility without a License shall be found in
7 violation of these rules and regulations and must cease operations immediately
8 until compliance is met.

9 (c) Before a License is granted, the applicant must certify its compliance
10 with local officials according to all applicable health, safety, fire, building, and
11 sanitation regulations using a Certification of Compliance Form provided by the
12 Department.

13 **§1102.2 Exclusions.**

14 (a) No License is required for the following:

15 (1) For the care by a relative, with or without compensation, where
16 the person furnishing such care does not regularly engage in such activity
17 and does not advertise or hold him/herself out as conducting a child care
18 facility;

19 (2) For the care by parents who, on a mutually cooperative basis,
20 exchange one another's children;

21 (3) For the care of children in their own home;

22 (4) For the care of children in a hospital or clinic;

23 (5) For the care of children in the following educational-type
24 facilities:

25 (A) An accredited public or private educational institution
26 that operates primarily for educational purposes for those children

1 grades kindergarten through twelfth (12th) grade. In the event such
2 accreditation does not include early childhood classrooms for those
3 children below kindergarten (i.e., birth to five years), then the
4 educational institution must comply with these rules and regulations
5 and will fall under the jurisdiction of these rules and regulations;

6 (B) A preschool classroom that is regulated by the Guam
7 Department of Education or the Administration for Children and
8 Families that adhere to federal guidelines and/or mandates, such as the
9 Head Start Performance Standards.

10 (C) An after-school care program operated directly by an
11 accredited public or private educational facility; or

12 (D) An after-school care program operated by another entity
13 under contract with the educational facility and the curriculum content
14 of the after-school program is approved by the Guam Department of
15 Education;

16 (6) For the temporary care of children in facilities operating in a
17 shopping center, fitness center, hotel, or establishments during any part of a
18 twenty-four (24) hour day while parents or persons responsible for the
19 children are attending services or engaging in other activities who remain
20 and are on the premises and care is not on a regular basis;

21 (7) For the temporary care of children during any part of a twenty-
22 four (24) hour day while parents remain and are on the premises
23 participating in religious functions and care is not on a regular basis; and

24 (8) For camps held on a seasonal basis where children are in
25 temporary care during any part of a twenty-four (24) hour day.

26 (9) For the care of children in child care facilities regulated by the
27 U.S. Department of Defense. (i.e., Military Child Care Facilities)

1 (b) The exclusions of this section does not affect the authority of state and
2 federal governments to inspect any child care facilities and/or private property for
3 compliance.

4 (c) Child care facilities that meet the criteria for exclusions as stated in
5 §1102.2 shall provide the Department with documentation, such as the most
6 current monitoring report, assuring that their facility has passed inspection and/or
7 requirements by their respective accrediting institution or regulatory agency, as
8 applicable.

9 **§1102.3 Application for License.**

10 (a) The application to obtain a License or Renewal License shall be
11 made on forms approved and supplied by the Department and shall be completed
12 and submitted within a minimum of sixty (60) business days prior to the proposed
13 opening date or date of expiration of License.

14 **§1102.4 Application Packet**

15 (a) The application packet shall include, but is not limited to the
16 following:

17 (1) Application Form which shall include information on Owner or
18 Licensee. The following information shall be supplied to the Division:

19 (a) The business name, mailing and physical address, and
20 telephone number of the child care facility;

21 (b) The name, date of birth, business mailing and physical
22 address, and business telephone number of the person(s)
23 bearing the responsibility for the child care facility;

24 (c) The name, date of birth, business mailing and physical
25 address, and business telephone number of the person(s)

1 Director and Assistant Director);

2 (2) Verification of early childhood training for staff (i.e., training
3 certificates transcripts)

4 (3) A copy of the child care facility's policies and procedures;

5 (4) A copy of the floor plan layout of the child care facility;

6 (5) A copy of the parent's handbook;

7 (6) Resume for the Early Childhood Director and Assistant
8 Director;

9 (7) Pediatric Cardio Pulmonary Resuscitation (CPR) and Pediatric
10 First Aid Certificates;

11 (8) A copy of each staff member's Health Certificates (issued by
12 the Division of Environmental Health of this Department);

13 (9) A copy of the Job-Site Inspection report issued by the Division
14 of Environmental Health of this Department;

15 (10) A copy of the Sanitary Permit(s) for the child care facility upon
16 issuance by the Division of Environmental Health of this Department; and

17 (11) Copy of immunization records for children enrolled.

18 (c) At no time shall an incomplete application package (for new, renewal, or
19 amendment, Licenses) be received by any staff of the Department.

20 (d) Applicants shall seek and comply with required applicable rules and
21 regulations concerning fire, building, sanitation, plumbing, electrical,
22 mechanical and zoning provided by the appropriate personnel from the
23 Department's Division of Environmental Health, Guam Fire Department,
24 Department of Public Works, Department of Land Management, and
25 Department of Revenue and Taxation.

26 (e) Applicants shall maintain accurate records of all information and
27 documents submitted to the Department which shall be readily available

1 for review by the Department upon request during inspection.

2 (f) New applicants shall be responsible for ensuring that all documents and
3 compliance reports, in addition to the application packet described in
4 §1102.4 are submitted to the Department no later than 60 business days
5 prior to the proposed opening date of the child care facility.

6 (g) The Department shall provide reminder notices to the Licensee at least
7 four (4) months prior to expiration of the License.

8 (h) Renewal applicants shall submit all documents and compliance reports
9 no less than 60 business days prior to the expiration of the License.
10 Failure to do so shall result in non-renewal of License and closure of
11 operation.

12 (i) The Department shall conduct a licensing evaluation only after receiving
13 a completed application and all required documents and reports to allow
14 sufficient time of 30 days for the licensing worker to conduct inspections
15 and reviews and complete a written report.

16 **§1102.5 General Information Requirements.**

17 (a) Admission procedures shall require that sufficient information and
18 instruction from the parents or guardians be furnished to enable the staff member
19 to make decisions or act on behalf of the child.

20 The child care facility shall require a completed application with at least one
21 (1) parent's or guardian's signature for each child to be kept on file. Prior to
22 admission of a child to a child care facility, the Licensee shall obtain in writing
23 from the child's parents or guardians the following information:

24 (1) Completed application form for each child and copy of child's
25 birth certificate;

26 (2) The child's full legal name, birth date, ethnic background,

1 primary language spoken, current mailing and physical address, and
2 preferred names;

3 (3) The name and address of the parents or guardians who are
4 legally responsible for the child;

5 (4) Telephone numbers or instructions as to how the parents or
6 guardians may be reached during the hours the child is in the child care
7 facility;

8 (5) The name, mailing and physical address, and telephone number
9 of three (3) person(s) who shall assume responsibility for the child if for
10 some reason the parents or guardians cannot be reached immediately in an
11 emergency;

12 (6) Name, clinic, and telephone number of child's physician;

13 (7) Written consent to call another physician, when deemed
14 necessary;

15 (8) Written authorization for emergency care, including provision
16 of health insurance information;

17 (9) Child health report, that includes the child's immunization
18 record, and other pertinent information regarding the health of the child (i.e.,
19 last physical examination report, TB test);

20 (10) The name of parents' or guardians' current place of
21 employment, address and phone number;

22 (11) Plan for health care in case of an emergency (i.e., insurance
23 provider, insurance number, doctor);

24 (12) Authorization for medical treatment in case of an emergency
25 when parent or guardian can not be contacted;

26 (13) Date of enrollment in child care facility;

27 (14) Written medical reports and health information shall be on file

1 for each child, including a report of an annual physical examination,
2 up-to-date immunization records, pertinent information regarding any
3 particular health problems, or any specific instructions regarding care
4 or feeding for the child. These records shall be kept confidential and
5 information provided only to the Child Care Director or the Child
6 Care Director's authorized representatives operating the facility or
7 other staff with a need to know, in the event of an emergency or other
8 staff with the written consent of the parents.

9 (A) Conditional admissions may be granted provided that the
10 following conditions are met:

11 1. The date of each appointment and name of the
12 physician or health institution providing the physical
13 examination must be placed in the child's health folder; and

14 2. Proof of medical examination and/or
15 administration of medical services are provided to the child care
16 facility.

17 3. Failure to complete the immunizations and
18 clearances within one (1) month of enrollment shall result in the
19 expulsion of the child until such time as the child is in
20 compliance.

21 (15) Eating and sleeping habits;

22 (16) Toileting habits;

23 (17) Allergies;

24 (18) Fears and preferences;

25 (19) Permission to administer medications, indicating frequency and
26 dosage must be submitted in writing by parents/guardians; and

27 (20) Other information as required by the Division.

1 (b) The child care facility shall conduct a personal interview with the
2 parent or guardian to verify other pertinent information provided on the child's
3 overall behavior and to acquaint the parent or guardian with the child care facility's
4 policies and procedures.

5 (c) The child care facility shall secure written permission from at least
6 one (1) parent or guardian before taking children on excursions out of the facility.

7 (d) The child care facility shall require a "Parent/Guardian Authorization
8 Form to Pick-Up Child" for each child and keep it current and on file.

9 (e) Information pertaining to an individual child or parents or guardians
10 of the child shall not be disclosed to persons other than the Early Childhood
11 Director or authorized staff members, unless the parents or guardians of the child
12 submit a signed consent form granting written permission for the disclosure or
13 when an emergency arises necessitating release of the information.

14 (f) The parents or guardians shall be informed in writing of the child care
15 facility's policy regarding disclosure of information.

16 **§1102.6 Issuance of License.**

17 (a) Upon completion of examination and satisfaction that the Licensee
18 and the child care facility has reasonably met all qualifications and standards
19 prescribed for the specific category of child care facility, the Department shall
20 issue a License.

21 (b) The License shall clearly state:

- 22 (1) The business name of the child care facility;
- 23 (2) The name(s) of the owner(s);
- 24 (3) The type of License issued;
- 25 (4) The category of the child care facility;
- 26 (5) The mailing address and physical location of the child care

1 facility;

2 (6) Contact telephone numbers

3 (7) The age and gender of children to be served;

4 (8) The capacity of the child care facility;

5 (9) The issuance and expiration date of the License;

6 (10) The License number; and

7 (11) Other conditions or limitations, as deemed necessary by the

8 *Department for the License.*

9 (c) The License is non-transferable and shall be valid only with respect to
10 the person, and physical location specified. It shall also be subject to review when
11 there is a significant change in operating policies that affects the health, safety, and
12 care of children and any changes in §1102.6(b) above.

13 (d) The Department shall issue the following types of License:

14 (1) **License.** A License shall be issued to a facility which is found
15 to be in conformity with child care rules and regulations.

16 (2) **Provisional License.** A Provisional License shall be issued to a
17 newly established or existing child care facility when the center does not meet all
18 licensing laws, rules and regulations. The center must conform to the requirements
19 on or before six (6) months for a License to be issued. A Provisional License may
20 be extended or issued for more than six (6) months upon approval by the Director.
21 In the event that the conditions are not met by the expiration date of the Provisional
22 License, the License shall be revoked, and the operations of the child care facility
23 shall cease immediately.

24 **§1102.7 Effective Date of License.**

25 (a) The effective date for a License shall be as follows:

26 (1) **License.**

1 (A) A License shall expire no later than two (2) years after
2 the date of issuance.

3 (B) When a License is issued after a Provisional License, the
4 expiration date of the License shall be two (2) years from the issuance
5 date of the Provisional License.

6 (C) The License shall be renewed only upon satisfactorily
7 meeting the requirements for application and the Department's
8 approval.

9 (2) **Provisional License.**

10 The expiration date for Provisional License may vary as
11 determined by the Director based on a reasonable time for compliance
12 with these rules and regulations, and shall not exceed more than six (6)
13 months from the date of issuance, unless otherwise approved by the
14 Director as previously stated in §1102.6(d)(2).

15 **§1102.8 Changes to Operation of the Child Care Center or Group Child**
16 **Care Home.**

17 (a) The Licensee must notify the Division in writing within twenty-four
18 (24) hours or by the next working day, whichever comes first, of any significant
19 changes planned in the operation of the child care facility, including services and
20 staffing that directly or indirectly affects the operation of the program. No changes
21 shall be made unless approved by the Division and all requirements for changes
22 have been met as determined by the Department. If change affects continued
23 operation of the child care facility, then necessary corrective action must be
24 completed within the prescribed timeframe to come into compliance or sooner as
25 determined by the Director. Significant changes include, but are not limited to, the
26 following: Relocation of Child Care facility, Renovation to Existing Structure,

1 Increase/Decrease in Child Capacity, Changes in Staffing Pattern, Changes in
2 Policies and Procedures, Changes in Ownership, Changes in the Name of Business
3 Operation and Changes to Center Layout. Such changes shall be taken into
4 consideration at the discretion of the Department to determine status of the License
5 for continued or discontinued operation of services upon meeting requirements and
6 qualifications in accordance to these rules and regulations as deemed necessary.

7 **§1102.9 Advertising.**

8 (a) A child care facility licensed by the Department may publish
9 advertisements of the services for which it is specifically licensed. All
10 advertisements shall include the child care facility's license number.

11 (b) All child care facilities that are required to be licensed and have failed
12 to do so are prohibited from advertising such services.

13 **§1102.10 Displaying License.** The License shall be displayed at the child care
14 facility in a prominent and conspicuous location as designated by the Director to be
15 viewed by the public at all times.

16 **§1102.11 Right of Entry, Inspection, and Investigation.**

17 (a) In exercising its authority to license child care facilities, the
18 Department's designated personnel shall have the right of entry, inspection and
19 investigation.

20 (b) The Division shall conduct inspections and investigation to ensure
21 compliance with these rules and regulations and to ensure the quality of care of
22 children in child care facilities.

23 (c) The Division shall review the qualifications of all staff members,
24 review written policies and program provisions, and conduct inspections of the

1 child care facility.

2 (d) In the event of a complaint or reason to believe that an unlicensed
3 child care facility operation is being conducted, authorized representatives of the
4 Department shall have the right to enter private property to verify and validate the
5 allegations. The Guam Police Department shall render assistance to the
6 Department in these cases, as needed.

7 (e) Authorized representatives of the Department shall be authorized to
8 visit a child care facility at any time during the hours of child care operation for
9 purposes of observing, monitoring and inspecting the facilities, activities, staffing
10 and other aspects of the child care facility.

11 (f) The Licensee shall cooperate with the Department by providing
12 access to its facilities, records, staff, and children in care. Failure to comply with
13 reasonable requests may constitute grounds for denial, suspension or revocation of
14 the License.

15 **§1102.12 Inspection Frequency.** An inspection of a child care facility shall be
16 conducted at least once every six (6) months. Additional inspections shall be
17 conducted as often as necessary for the enforcement of these rules and regulations.

18 **§1102.13 Report of Inspections.**

19 (a) Whenever an inspection of a child care facility is made, identified
20 deficiencies shall be recorded on the inspection report as approved by the Director
21 or his/her authorized representative. The inspection report shall summarize the
22 requirements of these rules and regulations. Inspection remarks shall be written to
23 reference, by section number, the section violated, shall state the correction to be
24 made, indicating the time period(s) for correction which shall be reasonable
25 depending on the nature of the non-compliance and the time required for correction.

1 (b) A copy of the inspection report shall be furnished to the person in
2 charge of the child care facility at the conclusion of the inspection.

3 (c) The inspection report is a public document that shall be made
4 available for public disclosure to any person who requests the documents pursuant
5 to §1113.0.

6 **§1102.14 Posting.** Copies of the most current inspection report shall be
7 posted adjacent to the License in a prominent and conspicuous location as
8 designated by the Director or the Director's authorized representative to be viewed
9 by the public at all times.

10 **§1102.15 License Fees.** The Department shall charge non-refundable fees as
11 prescribed by the Department for the following:

- 12 (a) New License
- 13 (b) Renewal License
- 14 (c) Duplicate License
- 15 (d) Amended License
- 16 (e) Provisional License

17 Fee schedule shall be promulgated pursuant to Article 3- Rule Making Procedures,
18 of Chapter 9, Title 5, Guam Code Annotated.

19 **Section 1103.0**
20 **ORGANIZATION**

21 **§1103.1 General.**

1 (a) Each Licensee which is a person, partnership, corporation, limited
2 liability corporation, limited liability partnership, or association shall be organized
3 according to its legal status as required by local law and applicable rules and
4 regulations.

5 (b) There shall be an internal structure which provides for an appropriate
6 governing authority which is:

7 (1) Responsible for the development and enforcement of operating
8 policies, *procedures of child care staff employment, finances and the total*
9 *organization of child care services; and*

10 (2) *Located so as to be familiar with, and accountable for, all*
11 *aspects of the operation of the child care facility for and reasonably*
12 *accessible to the Division.*

13 **Section 1104.0**
14 **HEALTH AND SAFETY**

15 **§1104.1 General.** The requirements for sanitation, health and safety
16 shall be adopted and in compliance with the Division of Environmental Health,
17 Department of Public Health and Social Services' applicable mandates and rules
18 and regulations pertaining to child care facilities.

19 **Section 1105.0**
20 **PROGRAM REQUIREMENTS**

1 **§1105.1 General**

2 (a) Child care facilities shall implement developmentally appropriate
3 practices. The Department has developed voluntary early learning guidelines that
4 facilities may use as a guide in developing and/or adopting a developmentally
5 appropriate curriculum. (*Appendix B: The Guam Early Learning Guidelines for*
6 *Young Children Birth to 36 Months and the Guam Early Learning Guidelines for*
7 *Young Children Ages Three to Five*);

8 (b) Child care facilities that provide after school programs for older
9 children shall implement age-appropriate curriculum;

10 (c) The program shall promote building positive relationships among
11 children and adults to increase and/or maintain a sense of self-worth and
12 responsibility to a community;

13 (d) The program shall implement a curriculum that is in harmony with
14 goals that promote learning and development in the cognitive, social, emotional,
15 language, aesthetic and physical areas;

16 (e) The program shall promote effective teaching strategies within its
17 curriculum that reflect culture, language and developmental needs of children to
18 increase learning and development;

19 (f) The program shall have in place, different assessments, formal or
20 informal, that provide information on individual learning and development to
21 ensure appropriate instruction, intervention, and/or evaluation that meet individual
22 needs and program goals;

23 (g) The program shall promote health, safety, and nutrition where
24 children and adults are protected from illness and harm;

25 (h) The program shall employ staff with the knowledge, skills, and
26 abilities to foster children’s learning and development and support families’ needs
27 and interests;

1 (i) The program shall build partnerships with families to support active
2 involvement in their children's growth and development;

3 (j) The program shall connect with community resources to support
4 program goals such as health, curriculum, transitions, diversity, and inclusion;

5 (k) The program shall have well-maintained indoor and outdoor physical
6 environments that are appropriate, safe, and accessible;

7 (l) The program shall have well-managed policies and procedures
8 promoting a system where children, families, and staff receive high-quality
9 experiences;

10 (m) *The Early Childhood Director shall seek authorization from the parent*
11 *or guardian of a child who has an Individualized Family Service Plan or*
12 *Individualized Education Plan to assist in meeting the developmental and*
13 *educational needs of a child with a disability.*

14 **Section 1106.0**
15 **STAFF TO CHILD RATIO**

16 **§1106.1 General.**

17 (a) The number of children per staff member shall not exceed:

Age of Child	Child:Staff Ratio	Effective Date of Compliance For Existing Child Care Facilities
Birth to 12 months	4:1	January 1, 2012
13 months to 2 years	7:1	January 1, 2012
13 months to 2 years	6:1	January 1, 2013

25 months to 3 years	10:1	January 1, 2012
37 months to 4 years	15:1	January 1, 2012
4 years and up	20:1	January 1, 2012

1 (b) Other hired staff who do not provide direct care and education to
2 children shall not be counted under the staff to child ratio (i.e. cooks, maintenance,
3 and housekeeping).

4 (c) Early Childhood Directors are not counted in the child staff ratio.

5 (d) No child shall be left without adult supervision at any time. Staff to
6 child ratio shall be maintained during all hours of operation. Staff shall be within
7 sight and sound of each child in the child care facility at all times. Staff who
8 provide direct care and education to children shall not engage in other activities
9 while performing their regular duties, unless used for educational purposes (e.g.
10 light housekeeping duties).

11 (e) During nap time, staff to child ratio must be maintained and
12 physically present in the same space as the children's sleeping area.

13 **§1106.2 Existing Child Care Facilities.** All existing child care facilities
14 currently in operation shall be required to come into compliance with §1106.1 on
15 the effective dates of compliance as stated in §1106.1 (a).

16 **§1106.3 New Child Care Facilities.** A new child care facility is any person or
17 entity that is issued a new license to operate a child care facility after the
18 promulgation of these Rules and Regulations. A new child care facility shall be
19 required to come into compliance with §1106.1 upon issuance of a license to
20 operate and the effective dates of compliance stipulated in §1106.1(a) are

1 applicable to the new licensee.

2 **Section 1107.0**
3 **ADMISSIONS**

4 **§1107.1 General.**

5 (a) Operators of child care facilities shall provide appropriate care to help
6 the child grow and develop physically, mentally, socially, emotionally, and
7 spiritually at his or her own pace, ensuring the child's overall welfare.

8 **§1107.2 Illness and Communicable Disease Control.**

9 (a) A general health screening and inspection shall be conducted daily on
10 each child as soon as possible after the child enters the child care facility and
11 whenever a change occurs while that child is in care. Information on each child
12 shall be gathered by completing the health screening and inspection, by inquiring
13 with the child's parents, and when possible, through a conversation with the child.
14 A written record of any and all concerns shall be documented in writing. The
15 *health screening and inspection shall address:*

16 (1) Observed changes in behavior or appearance from behaviors
17 observed during the previous day's attendance;

18 (2) Other signs or symptoms of illness (such as drainage from eyes,
19 vomiting, diarrhea, etc.)

20 (b) **Isolation Area.** Each child care facility shall have a designated
21 isolation area for a child who becomes ill at the facility. Such area shall be
22 adequately ventilated and equipped with a bed, mat, or cot and materials that can
23 be easily sanitized. Linens and disposables shall be changed after each use with

1 used linens and disposables contained in a closed container in the isolation area
2 until it can be cleaned or disposed of properly.

3 (c) Any children showing signs of infectious illness must be sent to the
4 isolation area to be kept separate and apart from the other children. The parent or
5 guardian must be notified immediately to arrange alternative measures for the
6 child's care. A staff member shall stay with the child at all times. The Early
7 Childhood Director shall ensure that the staff to child ratio is in compliance at all
8 times.

9 (d) The rules and regulations of the Department on communicable
10 diseases shall be followed where children show symptoms of communicable
11 diseases. The child care facility shall post a Communicable Disease placard subject
12 to the provisions of §2414 of Title 10 GCA, Chapter 2, Article 4 on communicable
13 diseases. (www.guamcourts.org/justicedocs/index.html)

14 (e) Children who have been determined to have an infectious illness or
15 communicable disease shall not return to the child care facility without medical
16 authorization, or until the signs and symptoms of the disease are no longer present.

17 (f) A child may be excluded from the child care facility (i.e. sent home)
18 as soon as possible if the child exhibits any condition or illness as listed in the
19 current communicable disease report or illnesses as recommended and listed in
20 guidelines developed by the American Academy of Pediatrics for exclusion of
21 children from the child care facility. (www.aap.org)

22 **§1107.3 Immunizations.**

23 (a) All children attending a child care facility shall receive immunizations
24 according to the Department's requirements in conformity with the Advisory
25 Committee on Immunization Practices (ACIP), U.S. Center for Disease Control
26 (CDC), Department of Health and Human Services, and the American Academy of

1 Pediatrics (AAP), unless excluded from the immunization requirements due to
2 religious exemptions (as approved by the Department) or medical contraindications
3 (as certified by a Guam licensed medical physician). (See Appendix D for
4 Recommended Immunization Schedules)

5 (b) Exemption from immunization for religious belief shall be
6 documented by a written, signed and dated statement from the child's parent or
7 guardian, that such vaccination or immunization would be against their religious
8 belief and would not constitute a contagious health risk for the public at large, as
9 certified by the Director. (P.L. 24-154, §3322.a.)

10 (c) Exemption from immunization for any medical reason shall be
11 documented by a written, signed, and dated statement by a Guam licensed medical
12 physician, that said child should be exempt from this section where such medical
13 contraindication to his or her receiving a specific vaccine exists. (P.L. 24-154,
14 §3322.a.) The child care facility has the right to exclude children who do not meet
15 the immunization requirements as stated under §1123.3 (a).

16 (d) Original statements (not copies) shall be kept in the child's record at
17 the Bureau of Communicable Disease Control of the Department for compliance
18 purposes. A copy of the certificate for medical and religious exemptions shall be
19 included in the child's record in the center.

20 (e) Child care facilities shall require parents or guardians to ensure their
21 children receive all follow-up immunizations needed to complete the
22 recommended series. A copy of the immunization records shall be filed in the
23 child's record at the Bureau of Communicable Disease Control of the Department.

24 (f) Parents or guardians shall be given a grace period, not to exceed thirty
25 (30) calendar days from the last assessment of the child's immunization record, to
26 obtain required immunization(s) in the recommended series.

1 **§1107.4 Testing for Tuberculosis**

2 No child shall be permitted to attend a child care facility unless they have on
3 file with the Child Care Director of the child care facility a report of a Tuberculosis
4 (TB) Skin Test result.

5 (a) If the child is entering from the United States (its states or its
6 territories), such test must have been conducted within one year prior to enrollment.
7 If the child is entering from an area other than the United States (its states or
8 territories), such test must have been conducted within six (6) months prior to
9 enrollment.

10 (b) If a child has had a positive TB Skin Test, a Certificate of TB
11 Evaluation must be obtained from the Department. If this certificate indicates that
12 the child is TB contagious, the child shall be permitted entrance to the child care
13 facility only after he or she is certified as non contagious by the Department.

14 **§1107.5 CPR and First Aid.**

15 (a) **CPR.** At least two (2) staff involved in providing direct care and
16 education of children shall complete and maintain certification requirements in
17 pediatric first aid and safety and management of blocked airway and rescue
18 breathing, including Cardio Pulmonary Resuscitation (CPR). At least one (1)
19 certified staff shall be on the premises at all times children are in care.

20 (b) **First Aid kit.** At least one (1) first aid kit containing materials to
21 administer first aid must be maintained on the premises of all child care facilities at
22 all times and wherever children are in care, including field trips and outings away
23 from the facility. A complete first aid kit must also be present in vehicles used in
24 the transportation of children during field trips and outings away from the facility.

25 (1) Each kit shall be in a closed container and labeled "First Aid."

26 (2) The kits shall be accessible to the staff members at all times and

1 kept out of the reach of children.

2 (3) Each first aid kit shall be replenished and updated on a regular
3 basis. Contents with elapsed expiration dates shall be discarded in a proper
4 manner.

5 **§1107.6 Medication.** No medication shall be given without the signed consent
6 of a parent and prescription drugs shall be given only when prescribed for a child
7 by a licensed physician.

8 (a) Prescription and non-prescription medication brought to the child care
9 facility by the parent or guardian shall:

10 (1) Be in the original container;

11 (2) Be properly labeled;

12 (3) Be dispensed according to written directions on the prescription
13 label or printed manufacturer's label;

14 (4) Be stored separately and locked or placed out of children's
15 reach; and

16 (5) Be stored at proper temperature as required by the manufacturer.

17 (b) Prescription medication must have a label stating the name of the
18 physician, child's name, name of the medication, and medication directions.

19 (c) For the purposes of dispensing non-prescription medication that is not
20 brought in by the parent, in the event of an emergency, non-prescription
21 medication can only be dispensed if the facility has prior written authorization
22 from the parent or guardian to do so. Any medication dispensed under these
23 conditions must be documented in the child's file and the parent or guardian must
24 be notified on the day of occurrence.

25 (d) If the parent or guardian notifies the child care facility of any known
26 allergies to medication, written documentation must be maintained in the child's

1 file and must be shared with staff and must be posted with stored medication.

2 (e) Any medication administered by any staff of the child care facility
3 shall be documented and recorded in a Medication Administration Log.

4 **§1107.7 Food and Nutrition.**

5 (a) **Food and Nutrition Policies and Plans**

6 (1) The facility shall have a food handling, feeding, and nutrition
7 plan that address the following items and delegates responsibility for each:

- 8 a. Food handling, preparation, and service;
- 9 b. Staffing;
- 10 c. Nutrition education for parents, staff, and children.

11 (b) **Meals Prepared and/or Served On-Site.**

12 (1) *A child care facility that prepares and cooks meals for children*
13 *shall provide adequate nutritious food appropriate to the age of the child at*
14 *normal meal time intervals, and shall follow the U.S. Department of*
15 *Agriculture's (U.S.D.A.) Food and Nutrition Guidelines and Food Guide*
16 *Pyramid for Young Children (Appendix E) based on the latest*
17 *recommendations adopted by U.S.D.A. For current and updated information*
18 *on nutrition guidelines recommended by the U.S.D.A., please refer to their*
19 *website at www.usda.gov.*

20 (2) Meal and snack menus shall be planned, written and posted at
21 the beginning of each week. Menus shall be dated and posted in the food
22 service area and in a conspicuous area easily accessible to parents or
23 guardians. Any menu substitution shall be noted on the menu.

24 (c) A child care facility where parents or guardians provide meals for
25 their children should promote an understanding of the importance of nutritious
26 meals and snacks as recommended by the U.S.D.A. Food and Nutrition Guidelines.

1 (Appendix F)

2 (d) If a special diet is required for a child by a physician, a copy of the
3 physician's order, a copy of the diet and a sample meal plan for the special diet
4 shall be maintained in the child's file. If the parent or guardian notifies the child
5 care facility of any known food allergies, written documentation must be
6 maintained in the child's file. Special food restrictions must be shared with staff
7 and must be posted in a conspicuous location in the kitchen area to serve as a
8 reminder for staff members.

9 (e) **Food Service.**

10 (1) Children shall be supervised during all meal times. All food
11 shall be served in individual containers for each child.

12 (2) Infants shall be fed by a staff member and at no time shall
13 propped bottles be permitted when feeding infants. There shall be no
14 automatic feeding devices unless medically prescribed. All bottles shall be
15 individually labeled with the child's name.

16 (3) Heated foods and bottles must be tested before feeding to
17 ensure heat is evenly distributed and to prevent injury to children.

18 (4) Child care facilities shall provide sufficient seating so that
19 children are seated at tables for meals.

20 (5) Food shall not be used as a reward or punishment.

21

Section 1108.0

22

MATERIALS AND EQUIPMENT

23 **§1108.1 General.**

24 (a) The selection, quantity, arrangement and use of available materials

1 and equipment shall be age-appropriate, durable, meet recommendations of the U.S.
2 Consumer Product Safety Commission (CPSC), including the CPSC *Handbook for*
3 *Public Playground Safety* (Appendix G), meet recommendations from the
4 Americans with Disabilities Act (ADA) for all children, including children with
5 special needs.

6 (b) The materials and equipment shall:

7 (1) Provide opportunities for indoor and outdoor play, exploration,
8 expression, experimentation and discovery;

9 (2) Provide opportunities for learning concepts and skills in
10 different developmental domains;

11 (3) Represent the diversity of children, families, culture, age,
12 gender, language and abilities;

13 (4) Provide safe, but challenging learning opportunities where
14 problem solving is practiced; and

15 (5) Support curriculum, meet goals and objectives of program, and
16 foster desired outcomes for children.

17 **§1108.2 Storage Spaces.**

18 (a) Storage spaces for individual storage of children’s clothing and
19 personal belongings shall be available and labeled;

20 (b) Storage spaces for accessible play materials and equipment used by
21 the children shall be available; and

22 (c) Storage spaces for other equipment, materials, and supplies used by
23 staff shall be available but secure and out of children’s reach.

24 **§1108.3 Sleeping Equipment and Bedding.** The following sleeping
25 equipment shall be safe, sturdy, clean, age-appropriate and available:

1 (a) Individual bed, cot, crib, sleeping bag, mat, or pad, for each child who
2 rests; and

3 (b) A clean sheet or cover to be used on the sleeping equipment for each
4 child.

5 **Section 1109.0**

6 **PERSONNEL**

7 **§1109.1 General.**

8 (a) There shall be sufficient number of qualified staff to carry out the
9 program of the child care facility at all times.

10 (b) Child care facilities shall develop and record policies pertaining to
11 personnel practices.

12 (c) The child care facility shall ensure that all new employee hires,
13 including submission of clearance documents, are reported to the Division prior to
14 their employment.

15 **§1109.2 Information on Current Staff Members.**

16 (a) The following information shall be supplied to the Division for all
17 staff members:

- 18 (1) Name, date of birth, age, home address and telephone number;
19 (2) Education transcripts and/or Early Childhood Care and
20 Education (ECCE) certificate;
21 (3) Experience;
22 (4) Health records;
23 (5) Health Certificate(s);

- (6) Police and Criminal Court Clearance;
- (7) Child Abuse and Neglect Registry Clearance; and
- (8) Other information as requested by the Division.

(b) A listing of all practicum students and/or volunteers who serve twenty (20) or more hours per week.

§1109.3 Responsibilities and Qualifications for Early Childhood Director.

(a) Responsibilities of Early Childhood Director.

(1) There shall be a responsible Early Childhood Director, or their designee, in charge of the child care center at all times during hours of operation. To be in charge means that the responsible person is on the premises, available to staff, parents or guardians, and children. It precludes outside employment which interferes with these duties.

(2) The Early Childhood Director shall not be a full-time teacher or early childhood provider.

(3) The Early Childhood Director shall be responsible for the overall administration of the child care center's policies and procedures.

(4) When the Early Childhood Director is required to be absent temporarily from the child care facility, arrangements shall be made for the Early Childhood Assistant Director or a staff who is at least 21 years of age and meets the requirements of no less than an Early Childhood Lead Provider, to act as a substitute for a maximum of one (1) month. After one (1) month, the Early Childhood Director shall hire an Acting Director if prolonged absence is necessary.

(b) Qualifications of Early Childhood Director. The qualifications for the Early Childhood Director shall be as follows:

(1) The Early Childhood Director shall be at least twenty-one (21)

1 years of age.

2 (2) The Early Childhood Director shall have education and
3 experience which will provide the knowledge, skills, and attributes and
4 qualities necessary to carry out an effective program of quality child care set
5 forth to these Laws, Rules and Regulations.

6 (3) The minimum education and training requirement for an Early
7 Childhood Director is Level 3 Early Childhood Master Provider/Early
8 Childhood Director as indicated in Guam's Plan for Professional
9 Development. (See Appendix A).

10 **§1109.4 Responsibilities and Qualifications of Early Childhood Assistant**
11 **Director.**

12 (a) **Responsibilities of Early Childhood Assistant Director.** The Early
13 Childhood Assistant Director shall be responsible and works with or alongside the
14 Early Childhood Director to carry out the program of the center under the guidance
15 of the Early Childhood Director.

16 (b) **Qualifications of Early Childhood Assistant Director.** The Early
17 Childhood Assistant Director shall meet the same minimum education and training
18 requirements as an Early Childhood Director as stated in §1109.3(b)(3).

19 (1) The Early Childhood Assistant Director shall be at least twenty-
20 one (21) years of age.

21 **§1109.5 Requirements of Staff Members.** Each staff member shall be
22 qualified through training, experience, skills, and education, as indicated in
23 Guam's Plan for Professional Development. (Appendix A)

24 (a) Educational requirements of staff shall be as follows: (as referenced in
25 the Guam's Plan for Professional Development):

1 1) By 2013, twenty-five percent (25%) of early childhood providers
2 employed by the child care facility shall meet the requirements of a
3 Level 2 Early Childhood Lead Provider;

4 (b) All staff members should have a physical examination from a licensed
5 physician indicating that the individual is in good health, free from highly
6 contagious diseases and any disability which would limit his/her ability to
7 adequately care for children. This physical examination report shall be renewed
8 annually and shall be kept on file in the facility.

9 (c) All staff members should have a valid Health Certificate pursuant to
10 Title 10 GCA Chapter 22 and applicable rules and regulations. These documents
11 shall be renewed annually with copies prominently posted in the facility as
12 required. Each staff member must comply with having their Health Certificate on
13 their person at all times while working as required by applicable rules and
14 regulations.

15 (d) Operators of child care facilities must obtain a valid Sanitary Permit
16 pursuant to Title 10 GCA Chapter 21 and applicable rules and regulations. This
17 permit shall be renewed annually, and prominently posted in the facility as
18 required.

19 (e) The Early Childhood Director shall provide information on workshops,
20 seminars, training sessions or courses available to all staff members to encourage
21 staff growth and development.

22 (1) Training topics should include, but is not limited to, one or
23 more of the following topical/competency areas (as referenced in Guam's
24 Plan for Professional Development):

- 25 (A) Child Development Theory and Practical Application;
- 26 (B) Healthy and Safe Environments;
- 27 (C) Adaptations and Modifications;

- (D) Working with Families;
- (E) Observation and Assessment; and
- (F) Professional Conduct and Ethics.

(f) Volunteers and Practicum Students who serve more than twenty (20) hours a week, are required to have a valid Health Certificate and physical examination prior to providing services.

(g) Licensees shall be responsible for ensuring that Licensees and all staff members are free of serious emotional problems which limit their ability to care for children and that they demonstrate evidence of the ability to deal effectively with practical problems of daily living and of child care.

(h) Licensees and all staff members shall be of reputable and responsible character and shall not have a criminal history record, employment history or background which poses a risk to children in care such as the following:

(1) Conviction of a crime involving violence, alcohol or drug abuse, sex offense, offense involving children and any other conviction, the circumstances of which indicate that the applicant or employee may pose a danger to children;

(2) Type of criminal offense, when it occurred, and evidence of rehabilitation may be considered in determining whether the criminal history record poses a risk to the health, safety or well-being of children in care;

(3) An employment history indicating violence, alcohol or drug abuse and any other violation of employer rule or policy, the circumstances of which indicate that the applicant or employee may pose a danger to children; and

(4) A documented history of an individual who was found to be in non-compliance and violation of licensing laws, rules and regulations and failed to conform to standards.

1 (5) Background information which shows that the individual has
2 been identified as the substantiated perpetrator of child abuse or neglect.

3 (i) Staff members directly responsible for the care and education of
4 children shall have the following minimum qualifications:

5 (1) Be at least eighteen (18) years of age or older;

6 (2) Complete requirements for a Level 1 Initial Early Childhood
7 Provider within 12 months of employment as indicated in the Guam's Plan
8 for Professional Development; and

9 (j) Staff members shall demonstrate the:

10 (1) Capacity to perform the duties required for the care and
11 education of the children.

12 (2) Ability to respect the individual child's uniqueness and level of
13 adjustment into the child care facility.

14 (3) Ability to work positively with children, co-workers and
15 parents, and deal effectively with practical problems of daily living.

16 **Section 1110.0**

17 **GROUP CHILD CARE HOMES**

18 **§1110.1 Group Child Care Homes**

19 (1) **Applicability.** The provisions of §1102 to §1111 shall
20 apply to all group child care homes.

21 (2) **Requirements for Group Child Care Home Providers.** The
22 requirements for group child care home providers shall be as follows:

23 (a) Demonstrate and maintain the capacity to perform the
24 duties required for the care and education of the children.

1 (b) Demonstrate and maintain the ability to respect the
2 individual child's uniqueness and level of adjustment.

3 (c) Demonstrate and maintain the ability to work
4 harmoniously with parents and other co-workers.

5 (d) Demonstrate and maintain an understanding of
6 developmentally appropriate practices in early childhood
7 education.

8 **(3) Qualifications of Group Child Care Home Providers.** The
9 qualifications for the group child care home providers shall be as
10 follows:

11 (a) Child care providers shall be free of serious emotional
12 problems that interfere with their ability to care for children and must
13 demonstrate evidence of ability to deal effectively with practical
14 problems of daily living, child care, and work positively with children,
15 co-workers and parents.

16 (b) Child care providers shall have the following minimum
17 qualifications:

18 (1) Be at least 21 years of age or older (each additional
19 provider in a Group Child Care Home shall be at least 18 years of age);

20 (2) Receive 15 hours of annual training in the areas of,
21 but not limited to, Health, Safety, Nutrition, and Child Development;
22 and

23 (3) Maintain Certification in Pediatric CPR and
24 Pediatric First Aid.

25 (c) Child care providers in contact with the children must
26 have a physical examination from a licensed physician indicating that
27 the individual is in good health and free from highly contagious

1 diseases and any disability which would limit his/her ability to care
2 for children. This physical examination report shall be renewed
3 annually and shall be kept on file in the group home facility.

4 (d) Child care providers should have a a valid health
5 certificate pursuant to Title 10 GCA Chapter 22 and applicable rules
6 and regulations. These documents shall be renewed annually and kept
7 on file and/or prominently posted in the facility as required.

8 (e) Child Care Providers, and all other adult members in the
9 home, shall obtain a Police Clearance, Criminal Court Clearance
10 listing the types of criminal convictions, if any, and Clearance from
11 the Child Abuse and Neglect and Sex Offender Registries.

12 **Section 1111.0**

13 **REPORTING REQUIREMENTS**

14 **§1111.1 Reporting Child Abuse and Neglect.**

15 (a) Pursuant to the Child Abuse and Neglect Reporting Act (Title 19
16 GCA, Chapter 13, Article 2 §13201), a person required to report suspected child
17 abuse or neglect is defined as: “Any person who in the course of his or her
18 employment, occupation, or practice of his or her profession, comes into contact
19 with children. Such persons shall report when they have reason to suspect on the
20 basis of their medical, professional, or other training and experience that a child is
21 an abused or neglected child.”

22 (b) No person may claim “privileged communication” as a basis for his or
23 her neglect or failure to report suspected child abuse or neglect or to provide Child
24 Protective Services Section of the Bureau of Social Services Administration under

1 the Division of the Department or the Guam Police Department with required
2 information. Such privileges are specifically abrogated with respect to reporting
3 suspected child abuse or neglect and providing information to the Department.

4 (c) The child care facility shall require each staff member to be
5 knowledgeable and informed of their individual mandatory responsibility to report
6 all incidents of child abuse or neglect to the Division's Child Protective Services
7 Section accordingly.

8 (d) At the time of admission, the child care facility shall provide to the
9 child's parent or guardian information that explains how to report suspected child
10 abuse or neglect and that the facility is mandated to report any suspected child
11 abuse or neglect to the proper authorities.

12 **§1111.2 Reporting Licensing Complaints**

13 The child care facility shall provide written information detailing the steps to
14 report any licensing, health, and safety violations against a child care facility at the
15 time of admission, to the child's parent or guardian and to potential staff members
16 prior to recruitment. The information must include the name, mailing address, and
17 telephone numbers of the Division's Child Licensing Program.

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<p>Section 1112.0</p> <p>DISPLAY OF DOCUMENTS</p>

20 **§1112.1 General.** The following documents shall be posted in a prominent
21 and conspicuous location as designated by the Director by the public at all times in
22 the child care facility:

23 (a) License to Operate a Child Care Facility;

- 1 (b) Sanitary Permit;
- 2 (c) Copy of Health Certificates;
- 3 (d) Daily Schedule;
- 4 (e) Fire Evacuation Plan;
- 5 (f) Fire Extinguisher Signs;
- 6 (g) Earthquake Preparedness Procedures;
- 7 (h) Exit Signs;
- 8 (i) Daily Menu (If applicable);
- 9 (j) Inspection reports conducted by the Department of Public Health &
- 10 Social Services, Guam Fire Department, Department of Public Works,
- 11 and Department of Land Management;
- 12 (k) Grading Placards issued by the Division of Environmental Health;
- 13 (l) Non-Smoking Signs;
- 14 (m) First Aid Kit Signs;
- 15 (n) Communicable Disease Prevention Poster; and
- 16 (o) Emergency phone numbers, to include, but not limited to the fire
- 17 department, police, emergency medical services and placed
- 18 conspicuously next to all operating phone lines; and
- 19 (p) Other emergency procedures established by the child care facility.

20 **Section 1113.0**

21 **RECORDS OPEN TO THE PUBLIC**

22 **§1113.1 Public Documents.**

- 23 (a) The Division's licensing records are considered open records and are
- 24 available to the public.

1 (b) Requests for records are conducted by the Division in conformance
2 with the guidelines of the Sunshine Reform Act of 1999 (Title 5 GCA, Chapter 10,
3 Article 1).

4 (c) Exceptions are:

5 (1) The name and identifying information about a reporter of
6 alleged violation of the Laws, Rules and Regulations or people who make
7 allegations during an investigation unrelated to the original report;

8 (2) Information identifying children's names;

9 (3) Criminal history information;

10 (4) Reports and records received from other agencies including
11 police, court clearances and child protection reports;

12 (5) Certain confidential information from other agencies;

13 (6) Personal references requested by the Division;

14 (7) Scholastic records, health reports, physical, social or
15 psychological;

16 (8) Information about pending court cases; and

17 (9) Information about an abuse or neglect investigation that has not
18 been completed.

19 **Section 1114.0**

20 **TRANSPORTATION PROVISIONS**

21 **§1114.1 General.** When transportation is provided by a child care facility,
22 children shall be protected by adequate supervision, safety precautions, and
23 liability and medical insurance coverage as follows:

24 (a) The vehicle and driver providing transportation shall be in compliance

1 with all relevant motor vehicle and traffic laws.

2 (b) During any field trip or excursion operated or planned by the child
3 care facility, the staff to child ratios as provided in §1106.1(a) shall apply.

4 (c) Children shall be instructed in safe transportation conduct as
5 appropriate for age and stage of development.

6 (d) Infants, toddlers, and preschoolers transported in vehicles by staff
7 members, either to and from the child care facility or for any program activities,
8 shall be properly secured in an age and size appropriate child passenger restraint
9 system, approved safety belts, or safety harnesses, which meets federal motor
10 vehicle safety standards and in accordance with the manufacturer's operating
11 instructions as mandated by Guam law.

12 (e) Children shall not be allowed to ride in the back of pick-up trucks,
13 jeeps, or other open-air vehicles that are not fully enclosed.

14 (f) Children shall be supervised in any vehicle at all times.

15 **Section 1115.0**
16 **COMMUNICATION BETWEEN PARENTS AND EARLY CHILDHOOD**
17 **PROVIDERS**

18 **§1115.1 General.**

19 (a) Early childhood providers shall communicate and maintain an open
20 door policy with parents or guardians including, but not limited to the following
21 information:

22 (1) Information and instructions related to the child; and

23 (2) Health, safety, child development, or behavior of the child to
24 the parents or guardians.

1 (b) Parents or guardians are encouraged to notify the child care facility
2 immediately of a concern which should be addressed immediately and expect
3 feedback from the child care facility in a timely manner, no later than two (2)
4 business days.

5 **Section 1116.0**

6 **PARENTAL ACCESSIBILITY**

7 **§1116.1 General.**

8 a) During hours of operation, a child care facility shall allow access by
9 parents or guardians having legal custody of a child in care to those areas
10 of the child care facility that is licensed for child care. This is to allow
11 parents or guardians the opportunity to observe their child and the
12 operation of the child care facility. Access to a child care facility by
13 parents or guardians with legal custody of children in care does not have
14 to be arranged in advance with the child care facility.

15 **§1116.2 Refraining from Releasing Children to Family.**

16 a) If a parent or authorized person is found to be behaving in a way that
17 impairs the person's ability to care for the child (i.e., drunken behavior,
18 belligerent) or lack suitable equipment (i.e., appropriate child passenger
19 restraint system), the child care providers shall refrain from releasing the
20 child to the family. Child care providers shall contact appropriate law
21 enforcement agents, as needed.

1 **Section 1117.0**

2 **NON-DISCRIMINATION**

3 **§1117.1 General.** A child care facility shall not discriminate against any
4 person on the ground of race, color, national origin, age, sex, religion or disability
5 in admission to, participation in, or receipt of the services and benefits of any of its
6 programs and activities or in employment. Furthermore, a child care facility shall
7 not deny or provide for the access and accommodation of persons with disabilities
8 in compliance with the Americans with Disabilities Act of 1990 (Title 42 United
9 States Code, Section 12101). Child care facilities shall also conform to any
10 territorial laws and applicable rules and regulations governing persons with
11 disabilities and other protected groups.

12 **Section 1118.0**

13 **ADMINISTRATIVE PENALTIES**

14 **§1118.1 Administrative Penalties.**

15 (a) The Director shall impose a fine for any child care facility whenever
16 the Division finds upon inspection or through information in its possession that a
17 person operating a child care facility is not in compliance with these rules and
18 regulations. Before imposing an administrative penalty, the Director shall issue a
19 notice of its intent to impose the penalty and provide the child care facility with an
20 opportunity to request a hearing on the proposed penalty. It is the Department's
21 responsibility to schedule such fair hearings. The hearing will be conducted in
22 accordance with §1121.0.

23 (b) Any person or child care facility may seek review of any
24 administrative penalty imposed before the Superior Court of Guam. Such review

1 shall be upon the record established before the Director and *not de novo*. The
2 Superior Court may sustain, modify or vacate any administrative penalty it reviews.

3 (c) If any person, or child care facility fails to comply with an
4 administrative penalty order after it has becomes final, the Attorney General shall
5 bring a civil action to enforce the order and to recover the amount ordered or
6 assessed, plus current interest from the date of the final order or decision. To
7 prevail in such an action, the Director need establish only that:

- 8 1) Notice was given as required;
- 9 2) A hearing was granted to the defendant or that the defendant
10 requested no hearing; and

11 | The penalty was imposed and has become final either because
12 the administrative order was not appealed to the Superior Court, or that after
13 | judicial review the administrative order remains an unsatisfied obligation.

14 (d) Fines will be determined according to the following classifications:

15 1) Class I violations are subject to a fine of \$250 for each violation
16 cited. A Class I violation is defined as:

- 17 i. the operation of a child care facility without a License;
- 18 ii. any violation of a regulatory requirement contained in
19 these rules and regulations which harms a child or places a child at
20 risk of death, serious, or protracted disfigurement, or protracted
21 impairment of physical illness or emotional health, including, but not
22 limited to the following:

- 23 1. the existence of any condition which constitutes or
24 creates a serious fire, safety or health risk, including, but not
25 limited to, a substantial failure of the child care facility's fire
26 detection or prevention system or conditions which would
27 prevent or impede emergency evacuation procedures;
- 28 2. the use of corporal punishment or frightening or
29 humiliating methods of control or discipline;
- 30 3. no supervision;
- 31 4. repeated findings that the child care facility has
32 exceeded its maximum permitted capacity;
- 33 5. the abuse of a child who is receiving care at the
34 child care facility by the owner, director, or staff of the child
35 care facility;

1 6. the intentional failure to report instances of alleged
2 *child abuse or maltreatment to the Child Protective Services*
3 *Section of the Division and/or take appropriate action to protect*
4 *children when an allegation of such abuse or maltreatment is*
5 *reported to the child care facility; and*

6 7. the refusal or failure to provide access to the child
7 *care facility to the Director or his/her authorized representative*
8 *for the purpose of conducting inspection or child care*
9 *investigation.*

10 2) Class II violations are subject to a fine of \$100 for each
11 *violation cited. A Class II violation is defined as any violation of a*
12 *regulatory requirement contained in the rules and regulations which places a*
13 *child at risk of physical, mental or emotional harm, including, but not*
14 *limited to the following:*

- 15 iii. inadequate or inappropriate supervision;
- 16 iv. inadequate light, ventilation, sanitation, food, water or
17 *heating; and*
- 18 v. first violation for providing care for more than the
19 *maximum number of children permitted by its license.*

20 3) Class III violations are subject to a fine of \$50 for each
21 *violation cited. A Class III violation is defined as any violation of a*
22 *regulatory requirement contained in these rules and regulations other than*
23 *those included under Class I or II violations, including but not limited to the*
24 *following:*

- 25 vi. Incomplete personnel and child enrollment files;
- 26 vii. *Absence of Child Care Director and Assistant Director on*
27 *child care facility;*
- 28 viii. *Child Care Director providing direct care of children;*
- 29 ix. *Outdated first aid kit and other safety equipment/supplies.*

30 (e) Any violation noted in more than one written inspection report
31 *prepared by the department and sent to the child care center so that corrective*
32 *action could be taken shall be considered a repeat violation.*

1 **Section 1119.0**

2 **DENIAL, SUSPENSION, OR REVOCATION OF LICENSE**

3 **§1119.1 Denial, Suspension, and Revocation of License.**

4 a) The Department may suspend any License to operate a child care facility
5 under, but not limited, to the following conditions:

6 (1) Any environmental health violation under Title 10 of the Guam
7 Code Annotated, Chapters 20 through 40 and those applicable rules and
8 regulations. The Director has general supervision of environmental health
9 and shall be responsible for carrying out the provisions of this Code. When
10 the demerit score of the establishment is more than forty (40), the sanitary
11 permit shall be immediately suspended; and in the case of temporary food
12 service establishments, violations must be corrected within a specified
13 period of time not to exceed twenty-four (24) hours. Failure to comply with
14 such notice shall result in immediate suspension of the sanitary permit;

15 (2) If the operation of the child care facility otherwise constitutes a
16 substantial or serious hazard to public health;

17 (3) The applicant or Licensee failed to comply with these rules and
18 regulations, the corrective action in the inspection report, Notice of Adverse
19 Action, and suspension;

20 (4) The applicant or Licensee failed to pay a fine after either failing
21 to appeal the assessment of a fine within the prescribed time or after a
22 hearing where assessment of a fine was upheld;

23 (5) The applicant or Licensee submitted any misleading or false
24 statement or report required in these rules and regulations;

1 b) The Department may deny or revoke any License to operate a child
2 care facility under, but not limited to the following conditions:

3 1) Violating the provisions of §2408 of the Child Welfare Services
4 Act (Title 10 GCA, Chapter 2 Article 4);

5 2) Upon a substantial or serious violation under these rules and
6 regulations, which affects the health and safety of children in care by a child
7 care facility or by any of its employees;

8 3) Any substantiated charge of child abuse or neglect;

9 4) The applicant or Licensee submitted any misleading or false
10 statement or report required in these rules and regulations;

11 5) The applicant or Licensee refused to submit any report or make
12 available any records required under §1102.0 of these rules and regulations;

13 6) The applicant or Licensee refused to admit, at a reasonable time,
14 any employee of the Department authorized by the Director to investigate or
15 inspect, in accordance with §1102.11 of these regulations; or

16 7) The applicant or Licensee failed to obtain a license prior to
17 opening child care facility.

18 **§1119.2 Effect.**

19 (a) Upon suspension or revocation, the Licensee shall immediately return
20 the License to the Division and the Licensee shall immediately cease all
21 operations. The Licensee must provide its roster of enrolled children and
22 emergency contact numbers to the Division's inspector who shall ensure that all
23 measures are taken to contact the parents/guardians of all the children to be picked
24 up.

25 (b) Whenever a License is suspended, a Provisional License may be
26 issued to resume operation. The child care facility must submit a corrective action

1 plan within the prescribed time frame to come into compliance. When the child
2 care facility submits documentation or all corrective actions have been taken, the
3 License will be upgraded back from its Provisional License to License status.

4 (c) When a Licensee fails to come in to compliance after being issued a
5 provisional license, the License shall be revoked. A Licensee shall not qualify for
6 a license from the Department for one (1) year after a final decision has been
7 rendered to revoke the license. Thereafter, Licensee shall be eligible to operate a
8 child care facility only if compliance of these rules and regulations can be
9 demonstrated.

10 (d) The Licensee shall not be eligible to operate a child care facility if
11 convicted of crime against persons and/ or listed in the Child Abuse Registry and /
12 or Sex Offender Registry as indicated in Section 1109.5 (h).

13 **§1119.3 Suspension in an Emergency.**

14 (a) The Department may suspend any License without a prior hearing if
15 failure of the Licensee to comply with any these rules and regulations results in an
16 emergency situation which endangers the life, health, or safety of children or staff
17 present in the child care facility. The Licensee shall be notified of any such
18 suspension of a License by written notice that is either hand delivered, mailed via
19 first class mail, certified or registered, return receipt requested, or delivered by
20 courier requiring a signed receipt.

21 (b) If the Department receives a request for hearing within five (5)
22 business days following the Licensee's receipt of such notice, a hearing shall be
23 held within ten (10) business days of the receipt of such request for hearing. The
24 suspension shall remain in effect pending such a hearing.

25 (c) The sole issue at the fair hearing shall be whether the Department has
26 reasonable cause to believe that the Licensee's failure to comply with these rules

1 and regulations resulted in an emergency situation which endangered the life,
2 health, or safety of children or staff present in the child care facility. If a report
3 indicates that any abuse or neglect occurred in a licensed child care facility or
4 during participation in a licensed child care facility related activity, it shall be
5 prima facie evidence that an emergency existed.

6 (d) The Licensee shall notify the parents or guardians of all children
7 enrolled in the child care facility and all funding agencies of any such suspension
8 of a License within two (2) business days of receipt of notice from the
9 Department.

10 (e) Upon suspension, the Licensee shall immediately return the License to
11 the Division and cease providing services.

12 **§1119.4 Follow-up to Enforcement Action.**

13 (a) Upon the expiration of the time frame(s) prescribed in a Corrective
14 Action Plan for compliance, inspection report, or Notice of Adverse Action, the
15 Division staff will determine compliance by visiting the child care facility or
16 program, reviewing documents, and/or verifying compliance through whatever
17 other means the Division deems suitable.

18 (b) If a determination of non-compliance is made, the Division shall
19 request an additional corrective action plan or Notice of Adverse Action. The
20 Department may, in addition to any of the actions listed above, levy an
21 administrative penalty; or deny, suspend or revoke a license.

22 (c) These rules and regulations shall in no way limit the Department's
23 authority to visit any child care facility, subject to licensure or approval by the
24 Department to determine compliance with these rules and regulations, nor do
25 these regulations limit the Department's authority to deny, suspend, or revoke a
26 license.

1 **Section 1120.0**

2 **RIGHT TO APPEAL**

3 **§1120.1 General.** Any child care facility receiving a notice indicating
4 that the Director has initiated an action to deny, suspend, or revoke its License,
5 shall result in the Licensee being informed of its right to appeal and the procedures
6 to file an appeal. Except for a suspension in an emergency as outlined in §1119.3
7 of these rules and regulations, a child care facility affected by an adverse action
8 may initiate an appeal by means of a written request to the Department within ten
9 (10) working days after the Licensee has been served by written notice that is
10 either hand delivered, mailed via first class mail, certified or registered, return
11 receipt requested, or delivered by courier requiring a signed receipt. Failure to
12 request within the timeframe will constitute a waiver of right to a hearing.

13 **Section 1121.0**

14 **HEARING**

15 **§1121.1 General.**

16 a) Except for a suspension in an emergency as outlined in §1119.3 of
17 these rules and regulations, whenever a License is to be denied, suspended, or
18 revoked, the Licensee shall be notified in writing through a Notice of Adverse
19 Action by the Director ten (10) days prior to the effective date of the agency's
20 action to deny, suspend or revoke the License. An opportunity for a hearing will

1 also be provided upon service of the Notice of Adverse Action for an
2 administrative penalty. A child care facility may request for a hearing on any
3 actions taken of denial, suspension and revocation taken by the agency.

4 (b) Upon receipt of a request for a hearing, the Director shall arrange to
5 hear the appeal of the child care facility within 20 working days following receipt
6 of the written request. The Director shall make final determination to repeal or
7 stay any denial, suspension or revocation described in §1119.0 upon the
8 completion of a hearing.

9 (c) If no written request for hearing is filed within ten (10) working days
10 of receipt of the notice, the Department's disciplinary action is sustained as noted
11 in the Notice of Adverse Action and the child care facility will be notified of the
12 decision in writing.

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Section 1122.0 SERVING OF NOTICES
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15 **§1122.1 General.** A notice provided for in these rules and regulations is
16 properly served when it is delivered to the Licensee or to the person in charge of
17 the child care facility, or when it is hand delivered, or mailed to the licensee via
18 first class mail, certified or registered, return receipt requested, or delivered by
19 courier requiring a signed receipt to the last known address of the Licensee. A
20 copy of the notice shall be filed in the records of the Bureau of Social Services
21 Administration, Division of Public Welfare, Department of Public Health and
22 Social Services.

1 **Section 1123.0**

2 **SEPARABILITY**

3 **§1123.1 General.** If any phrases, clauses, sentence, section, subsection,
4 provision or part of these rules and regulations or its applicability to any person or
5 circumstance, if for any reason is held to be unconstitutional or invalid, the
6 remaining portions of these rules and regulations, or the application of these rules
7 and regulations to other persons or circumstances shall not be affected.

8 **Section 1124.0**

9 **CHILD CARE FUND**

10 **§1124.1 Creation of Child Care Reserve Fund; No Commingling.** There is
11 hereby created, separate and apart from other funds of the government of Guam, a
12 reserve fund known as the Child Care Fund (the Fund). The Fund shall not be
13 commingled with the General Fund or any other funds of the government of Guam
14 and shall be deposited into a separate account

15 **§1124.2 Expenditures from the Fund.** All proceeds from fees and fines
16 collected pursuant to these rules and regulations shall be deposited into the Fund
17 and shall be expended upon legislative appropriation solely in support of the
18 functions of the Division of Public Welfare of the Department of Public Health and
19 Social Services including but not limited to: recruitment of child care licensing
20 staff, professional development, training and technical assistance for child care
21 professionals and licensing staff, and quality care and education of children. Any

1 unexpended balance of the Fund shall be carried over to the next fiscal year and
2 shall not decrease the local budget based on the fees and fines in collected in this
3 Fund from previous budget year.

4 **§1124.3 No Transfer Authority.** The money placed in the Fund is not subject
5 to any transfer authority of I Maga'lāhen Guåhan [Governor of Guam].

6

Section 1125.0

7

REVIEW

8 **§1125.1 General.** The Department shall review and update these regulations
9 as needed, but in no event longer than five (5) years after the date of the
10 promulgation of these Rules and Regulations.