STANDARDS
FOR
LICENSED CHILD DAY CENTERS

REVISED

Effective November 1, 2012

DEPARTMENT OF SOCIAL SERVICES
COMMONWEALTH OF VIRGINIA

STANDARDS
FOR
LICENSED CHILD DAY CENTERS

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PREAMBLE

Legislation enacted at the 2012 General Assembly session abolished the Child Day-Care Council and transferred authority for promulgating the Child Day-Care Council regulations to the State Board of Social Services.

As a result of this transfer, the Virginia Registrar of Regulations created a new number for the *Standards for Licensed Child Day Centers.*

Effective November 1, 2012 the *renumbered Standards for Licensed Child Day Centers* will be identified as, 22VAC40-185.

The State Board of Social Service has authority for the following set of standards for centers serving children under the age of 13 who are separated from their parents or guardians during a part of the day. The purposes of the standards are (i) to ensure that the activities, services, and facilities of child day centers are conducive to the well-being and development of children and (ii) to reduce health and safety risks in the caregiving environment.

The Virginia Department of Social Services licenses child day centers and enforces the standards through announced and unannounced visits. Every effort is made to protect the rights of children in care and licensees by enforcing the standards using discretion and judgment. When appropriate, technical experts may be consulted to assure accurate compliance determination with the standards. Child day center operators regulated by these standards may request an exception (allowable variance) for any standard that creates a special hardship unless the standard is required by law or another agency's regulation. Licensees are encouraged to discuss any concerns about licensing procedures, interpretation and application of standards, or the actions of licensing personnel with the licensing inspector and, if necessary, supervisory personnel at the field or home office level.

The regulation entitled General Procedures and Information for Licensure contains procedures for licensure, allowable variances, problem solving conferences, complaint investigation and sanctions. Please refer to that document for detailed information on these topics.

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CHAPTER 185

STANDARDS FOR LICENSED CHILD DAY CENTERS

PART I.
INTRODUCTION

22 VAC 40-185-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Adult" means any individual 18 years of age or older.

"Age and stage appropriate" means the curriculum, environment, equipment, and adult-child interactions are suitable for the ages of the children within a group and the individual needs of any child.

"Age groups":

1. "Infant" means children from birth to 16 months.

2. "Toddler" means children from 16 months up to two years.

3. "Preschool" means children from two years up to the age of eligibility to attend public school, five years by September 30.

4. "School age" means children eligible to attend public school, age five or older by September 30 of that same year. Four- or five-year-old children included in a group of school age children may be considered school age during the summer months if the children will be entering kindergarten that year.

"Attendance" means the actual presence of an enrolled child.

"Balanced mixed-age grouping" means a program using a curriculum designed to meet the needs and interests of children in the group and is planned for children who enter the program at three through five years of age. The enrollment in the balance mixed-age grouping comprises a relatively even allocation of children in each of three ages (three to six years) and is designed for children and staff to remain together with turnover planned only for the replacement of exiting students with children of ages that maintain the class balance.

"Body fluids" means urine, feces, saliva, blood, nasal discharge, eye discharge, and injury or tissue discharge.

22 VAC 40-185-10. Definitions.

"Camp" means a child day camp that is a child day center for school age children that operates during the summer vacation months only. Four-year-old children who will be five by September 30 of the same year may be included in a camp for school age children.

"Center" means a child day center.

"Child" means any individual under 18 years of age.

"Child day center" means a child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at any location.

Exemptions (§ 63.2-1715 of the Code of Virginia):

1. A child day center that has obtained an exemption pursuant to § 63.2-1716 of the Code of Virginia;

2. A program where, by written policy given to and signed by a parent or guardian, children are free to enter and leave the premises without permission or supervision regardless of (i) such program's location or the number of days per week of its operation; (ii) the provision of transportation services, including drop-off and pick-up times; or (iii) the scheduling of breaks for snacks, homework, or other activities. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure;

3. A program of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period;

4. Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed 1-1/2 hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation;

22 VAC 40-185-10. Definitions.

5. A program that operates no more than a total of 20 program days in the course of a calendar year provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week;

6. Instructional programs offered by public and private schools that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act, as amended (20 USC § 1400 et seq.), and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language;

7. Education and care programs provided by public schools that are not exempt pursuant to subdivision 6 of this definition shall be regulated by the State Board of Education using regulations that incorporate, but may exceed, the regulations for child day centers licensed by the commissioner;

8. Early intervention programs for children eligible under Part C of the Individuals with Disabilities Education Act, as amended (20 USC § 1400 et seq.), wherein no child attends for more than a total of six hours per week;

9. Practice or competition in organized competitive sports leagues;

10. Programs of religious instruction, such as Sunday schools, vacation Bible schools, and Bar Mitzvah or Bat Mitzvah classes, and child-minding services provided to allow parents or guardians who are on site to attend religious worship or instructional services;

11. Child-minding services which are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) is not an on-duty employee, except for part-time employees working less than two hours per day; (ii) can be contacted and can resume responsibility for the child's supervision within 30 minutes; and (iii) is receiving or providing services or participating in activities offered by the establishment;

12. A certified preschool or nursery school program operated by a private school that is accredited by a statewide accrediting organization recognized by the State Board of Education or accredited by the National Association for the Education of Young Children's National Academy of Early Childhood Programs; the Association of Christian Schools International; the American Association of Christian Schools; the National Early Childhood Program Accreditation; the National Accreditation Council for Early Childhood Professional Personnel and Programs; the International Academy for Private

22 VAC 40-185-10. Definitions.

Education; the American Montessori Society; the International Accreditation and Certification of Childhood Educators, Programs, and Trainers; or the National Accreditation Commission that complies with the provisions of § 63.2-1717 of the Code of Virginia;

13. A program of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children. Such programs shall be subject to safety and supervisory standards established by local governments; or

14. By policy, a child day center that is required to be programmatically licensed by another state agency for that service.

"Child day program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.

Note: This does not include programs such as drop-in playgrounds or clubs for children when there is no service arrangement with the child's parent.

"Children with special needs" means children with developmental disabilities, mental retardation, emotional disturbance, sensory or motor impairment, or significant chronic illness who require special health surveillance or specialized programs, interventions, technologies, or facilities.

"Cleaned" means treated in such a way to reduce the amount of filth through the use of water with soap or detergent or the use of an abrasive cleaner on inanimate surfaces.

"Commissioner" means the Commissioner of the Virginia Department of Social Services.

"Communicable disease" means a disease caused by a microorganism (bacterium, virus, fungus, or parasite) that can be transmitted from person to person via an infected body fluid or respiratory spray, with or without an intermediary agent (such as a louse, mosquito) or environmental object (such as a table surface). Some communicable diseases are reportable to the local health authority.

"Department" means the Virginia Department of Social Services.

"Department's representative" means an employee or designee of the Virginia Department of Social Services, acting as the authorized agent of the commissioner.

22 VAC 40-185-10. Definitions.

"Evening care" means care provided after 7 p.m. but not through the night.

"Good character and reputation" means knowledgeable and objective people agree that the individual (i) maintains business, professional, family, and community relationships which are characterized by honesty, fairness, and truthfulness and (ii) demonstrates a concern for the well-being of others to the extent that the individual is considered suitable to be entrusted with the care, guidance, and protection of children. Relatives by blood or marriage and people who are not knowledgeable of the individual, such as recent acquaintances, shall not be considered objective references.

"Group of children" means the children assigned to a staff member or team of staff members.

"High school program completion or the equivalent" means an individual has earned a high school diploma or General Education Development (G.E.D.) certificate, or has completed a program of home instruction equivalent to high school completion.

"Independent contractor" means an entity that enters into an agreement to provide specialized services or staff for a specified period of time.

"Individual service, education or treatment plan" means a plan identifying the child's strengths, needs, general functioning and plan for providing services to the child. The service plan includes specific goals and objectives for services, accommodations and intervention strategies. The service, education or treatment plan clearly shows documentation and reassessment/evaluation strategies.

"Intervention strategies" means a plan for staff action that outlines methods, techniques, cues, programs, or tasks that enable the child to successfully complete a specific goal.

"Licensee" means any individual, partnership, association, public agency, or corporation to whom the license is issued.

"Minor injury" means a wound or other specific damage to the body such as, but not limited to, abrasions, splinters, bites that do not break the skin, and bruises.

"Overnight care" means care provided after 7 p.m. and through the night.

"Parent" means the biological or adoptive parent or parents or legal guardian or guardians of a child enrolled in or in the process of being admitted to a center.

"Physician" means an individual licensed to practice medicine in any of the 50 states or the District of Columbia.

22 VAC 40-185-10. Definitions.

"Physician's designee" means a physician, licensed nurse practitioner, licensed physician assistant, licensed nurse (R.N. or L.P.N.), or health assistant acting under the supervision of a physician.

"Primitive camp" means a camp where places of abode, water supply system, or permanent toilet and cooking facilities are not usually provided.

"Programmatic experience" means time spent working directly with children in a group that is located away from the child's home. Work time shall be computed on the basis of full-time work experience during the period prescribed or equivalent work time over a longer period. Experience settings may include but not be limited to a child day program, family day home, child day center, boys and girls club, field placement, elementary school, or a faith-based organization.

"Resilient surfacing" means:

1. For indoor and outdoor use underneath and surrounding equipment, impact absorbing surfacing materials that comply with minimum safety standards when tested in accordance with the procedures described in the American Society for Testing and Materials' standard F1292-99 as shown in Figures 2 (Compressed Loose Fill Synthetic Materials Depth Chart) and 3 (Use Zones for Equipment) on pages 6-7 of the National Program for Playground Safety's "Selecting Playground Surface Materials: Selecting the Best Surface Material for Your Playground," February 2004.

2. Hard surfaces such as asphalt, concrete, dirt, grass or flooring covered by carpet or gym mats do not qualify as resilient surfacing.

"Sanitized" means treated in such a way to remove bacteria and viruses from inanimate surfaces through using a disinfectant solution (i.e., bleach solution or commercial chemical disinfectant) or physical agent (e.g., heat). The surface of item is sprayed or dipped into the disinfectant solution and allowed to air dry after use of the disinfectant solution.

"Serious injury" means a wound or other specific damage to the body such as, but not limited to, unconsciousness; broken bones; dislocation; deep cut requiring stitches; concussion; foreign object lodged in eye, nose, ear, or other body orifice.

"Shelter-in-place" means the facility or building in which a child day center is located.

"Short-term program" means a child day center that operates less than 12 weeks a year.

22 VAC 40-185-10. Definitions.

"Special needs child day program" means a program exclusively serving children with special needs.

"Specialty camps" means those centers that have an educational or recreational focus on one subject such as dance, drama, music, or sports.

"Sponsor" means an individual, partnership, association, public agency, corporation or other legal entity in whom the ultimate authority and legal responsibility is vested for the administration and operation of a center subject to licensure.

"Staff" means administrative, activity, and service personnel including the licensee when the licensee is an individual who works in the center, and any persons counted in the staff-to-children ratios or any persons working with a child without sight and sound supervision of a staff member.

"Staff positions" are defined as follows:

1. "Aide" means the individual designated to be responsible for helping the program leader in supervising children and in implementing the activities and services for children. Aides may also be referred to as assistant teachers or child care assistants.

2. "Program leader" means the individual designated to be responsible for the direct supervision of children and for implementation of the activities and services for a group of children. Program leaders may also be referred to as child care supervisors or teachers.

3. "Program director" means the primary, on-site director or coordinator designated to be responsible for developing and implementing the activities and services offered to children, including the supervision, orientation, training, and scheduling of staff who work directly with children, whether or not personally performing these functions.

4. "Administrator" means a manager or coordinator designated to be in charge of the total operation and management of one or more centers. The administrator may be responsible for supervising the program director or, if appropriately qualified, may concurrently serve as the program director. The administrator may perform staff orientation or training or program development functions if the administrator meets the qualifications of 22VAC15-30-23022VAC40-185-190 and a written delegation of responsibility specifies the duties of the program director.

22 VAC 40-185-10. Definitions.

"Therapeutic child day program" means a specialized program, including but not limited to therapeutic recreation programs, exclusively serving children with special needs when an individual service, education or treatment plan is developed and implemented with the goal of improving the functional abilities of the children in care.

"Universal precautions" means an approach to infection control. According to the concept of universal precautions, all human blood and certain human body fluids are treated as if known to be infectious for human immunodeficiency virus (HIV), hepatitis B virus (HBV), and other bloodborne pathogens.

"Volunteer" means a person who works at the center and:

1. Is not paid;

2. Is not counted in the staff-to-children ratios; and

3. Is in sight and sound supervision of a staff member when working with a child.

Any unpaid person not meeting this definition shall be considered "staff" and shall meet staff requirements.

22 VAC 40-185-20. Legal base.

A. Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2 of the Code of Virginia describes the responsibility of the Department of Social Services for the regulation of residential and day programs for children, including child day centers.

B. Section 63.2-1734 of the Code of Virginia requires the State Board of Social Services to prescribe standards for certain activities, services, and facilities for child day centers.

C. Nothing in this chapter shall be construed to contradict or to negate any provisions of the Code of Virginia which may apply to child day centers.

22 VAC 40-185-30. Purpose and applicability.

A. The purpose of these standards is to protect children under the age of 13 who are separated from their parents during a part of the day by:

   1. Ensuring that the activities, services, and facilities of centers are conducive to the well-being of children; and

   2. Reducing risks in the environment.

B. The standards in this chapter apply to child day centers as defined in 22VAC40-185-10 serving children under the age of 13.

PART II
ADMINISTRATION

22 VAC 40-185-40. Operational responsibilities.

A. Applications for licensure shall conform with Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2 of the Code of Virginia and the regulation entitled General Procedures and Information for Licensure, 22VAC40-80.

B. Pursuant to §§ 63.2-1719 and 63.2-1721 and the regulation entitled Background Checks for Child Welfare Agencies, 22VAC40-191, the applicant and any agent at the time of application who is or will be involved in the day-to-day operations of the center or who is or will be alone with, in control of, or supervising one or more of the children, shall be of good character and reputation and shall not be guilty of an offense. Offenses are barrier crimes, conviction of any other felony not included in the definition of barrier crime unless five years have elapsed since conviction, and a founded complaint of child abuse or neglect.

C. The sponsor shall afford the commissioner or his agents the right at all reasonable times to inspect facilities and to interview his agents, employees, and any child or other person within his custody or control, provided that no private interviews may be conducted with any child without prior notice to the parent of such child.

D. The license shall be posted in a place conspicuous to the public (§ 63.2-1701 of the Code of Virginia).

E. The operational responsibilities of the licensee shall include, but not be limited to, ensuring that the center's activities, services, and facilities are maintained in compliance with these standards, the center's own policies and procedures that are required by these standards, and the terms of the current license issued by the department.

F. Every center shall ensure that any advertising is not misleading or deceptive as required by § 63.2-1713 of the Code of Virginia.

G. The center shall meet the proof of child identity and age requirements as stated in § 63.2-1809 of the Code of Virginia.

H. The sponsor shall maintain public liability insurance for bodily injury for each center site with a minimum limit of at least $500,000 each occurrence and with a minimum limit of $500,000 aggregate.

1. A public sponsor may have equivalent self-insurance that is in compliance with the Code of Virginia.

22 VAC 40-185-40. Operational responsibilities.

2. Evidence of insurance coverage shall be made available to the department's representative upon request.

I. The center shall develop written procedures for injury prevention.

J. Injury prevention procedures shall be updated at least annually based on documentation of injuries and a review of the activities and services.

K. The center shall develop written playground safety procedures which shall include:

1. Provision for active supervision by staff to include positioning of staff in strategic locations, scanning play activities, and circulating among children; and

2. Method of maintaining resilient surface.

L. Hospital-operated centers may temporarily exceed their licensed capacity during a natural disaster or other catastrophe or emergency situation and shall develop a written plan for emergency operations, for submission to and approval by the Department of Social Services.

M. When children 13 years or older are enrolled in the program and receive supervision in the licensed program, they shall be counted in the number of children receiving care and the center shall comply with the standards for these children.

22 VAC 40-185-50. General recordkeeping; reports.

A. Staff and children's records shall be treated confidentially. Exception: Children's records shall be made available to parents on request, unless otherwise ordered by the court.

B. Records and reports on children and staff required by this chapter shall be maintained and made accessible for two years after termination of services or separation from employment unless specified otherwise.

C. Records may be kept at a central location except as stated otherwise in these standards.

22 VAC 40-185-60. Children's records.

A. Each center shall maintain and keep at the center a separate record for each child enrolled which shall contain the following information:

1. Name, nickname (if any), sex, and birth date of the child;

2. Name, home address, and home phone number of each parent who has custody;

3. When applicable, work phone number and place of employment of each parent who has custody;

4. Name and phone number of child's physician;

5. Name, address, and phone number of two designated people to call in an emergency if a parent cannot be reached;

6. Names of persons authorized to pick up the child. Appropriate legal paperwork shall be on file when the custodial parent requests the center not to release the child to the other parent;

7. Allergies and intolerance to food, medication, or any other substances, and actions to take in an emergency situation;

8. Chronic physical problems and pertinent developmental information and any special accommodations needed;

9. Health information as required by 22VAC40-185-130 through 22VAC40-185-150;

Exception: When a center is located on the same premises where a child attends school and the child's record has a statement verifying the school's possession of the health record, the center is not required to maintain duplicates of the school's health record for that child provided the school's records are accessible during the center's hours of operation.

10. Written agreements between the parent and the center as required by 22VAC40-185-90;

11. Documentation of child updates and confirmation of up-to-date information in the child's record as required by 22VAC40-185-420 E 3;

12. Any blanket permission slips and opt out requests;

13. Previous child day care and schools attended by the child;

22 VAC 40-185-60. Children's records.

14. Name of any additional programs or schools that the child is concurrently attending and the grade or class level;

15. Documentation of viewing proof of the child's identity and age; and

16. First and last dates of attendance.

B. The proof of identity, if reproduced or retained by the child day program or both, shall be destroyed upon the conclusion of the requisite period of retention. The procedures for the disposal, physical destruction or other disposition of the proof of identity containing social security numbers shall include all reasonable steps to destroy such documents by (i) shredding, (ii) erasing, or (iii) otherwise modifying the social security numbers in those records to make them unreadable or indecipherable by any means.

22 VAC 40-185-70. Staff records.

A. The following staff records shall be kept for each staff person:

1. Name, address, verification of age requirement, job title, and date of employment or volunteering; and name, address and telephone number of a person to be notified in an emergency which shall be kept at the center.

2. For staff hired after March 1, 1996, documentation that two or more references as to character and reputation as well as competency were checked before employment or volunteering. If a reference check is taken over the phone, documentation shall include:

    a. Dates of contact;

    b. Names of persons contacted;

    c. The firms contacted;

    d. Results; and

    e. Signature of person making call.

3. Background checks as required by the regulation entitled Background Checks for Licensed Child Day Centers (22VAC15-51).

4. Written information to demonstrate that the individual possesses the education, orientation training, staff development, certification, and experience required by the job position.

22 VAC 40-185-70. Staff records.

5. First aid, cardiopulmonary resuscitation and other certifications as required by the responsibilities held by the staff member.

6. Health information as required by 22VAC40-185-160 and 22VAC40-185-170.

7. Information, to be kept at the center, about any health problems which may interfere with fulfilling the job responsibilities.

8. Date of separation from employment.

B. Exception: Background check records for independent contractors must be kept in accordance with 22VAC15-51-70 of the background check regulation.

22 VAC 40-185-80. Attendance records; reports.

A. The center shall keep a written record of children in attendance each day.

B. Reports shall be filed and maintained as follows:

1. The center shall inform the commissioner's representative as soon as practicable but not to exceed one working day of the circumstances surrounding the following incidents:

    a. Death of a child while under the center's supervision; and

    b. Missing child when local authorities have been contacted for help.

2. Any suspected incident of child abuse shall be reported in accordance with § 63.2-1509 of the Code of Virginia.

22 VAC 40-185-90. Parental agreements.

A. A written agreement between the parent and the center shall be in each child's record by the first day of the child's attendance. The agreement shall be signed by the parent and include:

1. An authorization for emergency medical care should an emergency occur when the parent cannot be located immediately unless the parent states in writing an objection to the provision of such care on religious or other grounds;

22 VAC 40-185-90. Parental agreements.

2. A statement that the center will notify the parent when the child becomes ill and that the parent will arrange to have the child picked up as soon as possible if so requested by the center; and

3. A statement that the parent will inform the center within 24 hours or the next business day after his child or any member of the immediate household has developed any reportable communicable disease, as defined by the State Board of Health, except for life threatening diseases which must be reported immediately.

22 VAC 40-185-100. Enrollment procedures of therapeutic child day programs and special needs child day programs.

Before the child's first day of attendance, there shall be personal communication between the director, or his designee, and the parent to determine:

1. The child's level of general functioning as related to physical, affective/emotional, cognitive and social skills required for participation; and

2. Any special medical procedures needed.

22 VAC 40-185-110. Individual assessment for therapeutic child day programs.

A. An individual assessment completed within six months before the child's attendance or 30 days after the first day of attendance shall be maintained for each child.

B. An individual assessment shall be reviewed and updated for each child no less than once every 12 months.

22 VAC 40-185-120. Individual service, education or treatment plan for therapeutic child day programs.

A. An individual service, education or treatment plan:

1. Shall be developed for each child by the director or his designee and primary staff responsible for plan implementation;

2. Shall be implemented within 60 days after the first day of the child's attendance.

22 VAC 40-185-120. Individual service, education or treatment plan for therapeutic child day programs.

B. The child's individual service, education or treatment plan shall be developed, reviewed, and revised every three months and rewritten annually by the director or his designee and primary staff responsible for plan implementation. This shall be done in partnership with the parent, residential care provider or advocate.

C. A copy of the initial plan and subsequent or amended service, education or treatment plans shall be maintained in the child's record and a copy given to the child's parent.

22 VAC 40-185-130. Immunizations for children.

A. The center shall obtain documentation that each child has received the immunizations required by the State Board of Health before the child can attend the center.

Exemptions (subsection C of § 22.1-271.2 of the Code of Virginia and 12VAC5-110-110 of the Regulations for the Immunizations of School Children): Documentation of immunizations is not required for any child whose (i) parent submits an affidavit to the center, on the form entitled "Certification of Religious Exemption," stating that the administration of immunizing agents conflicts with the parent's or child's religious tenets or practices, or (ii) physician or a local health department states on a MCH 213B or MCH 213C, or other Department of Health-approved form that one or more of the required immunizations may be detrimental to the child's health.

B. The center shall obtain documentation of additional immunizations once every six months for children under the age of two years.

C. The center shall obtain documentation of additional immunizations once between each child's fourth and sixth birthdays.

22 VAC 40-185-140. Physical examinations for children.

A. Each child shall have a physical examination by or under the direction of a physician:

1. Before the child's attendance; or

2. Within one month after attendance.

22 VAC 40-185-140. Physical examinations for children.

B. If the child has had a physical examination prior to attendance, it shall be within the time period prescribed below:

1. Within two months prior to attendance for children six months of age and younger;

2. Within three months prior to attendance for children aged seven months through 18 months;

3. Within six months prior to attendance for children aged 19 months through 24 months; and

4. Within 12 months prior to attendance for children two years of age through five years of age.

C. Exceptions:

1. Children transferring from a facility licensed by the Virginia Department of Social Services, certified by a local department of public welfare or social services, registered as a small family day home by the Virginia Department of Social Services or by a contract agency of the Virginia Department of Social Services, or approved by a licensed family day system:

    a. If the initial report or a copy of the initial report of immunizations is available to the admitting facility, no additional examination is required.

    b. If the initial report or a copy of the initial report is not available, a report of physical examination and immunization is required in accordance with 22VAC40-185-130 and this section.

2. Pursuant to subsection D of § 22.1-270 of the Code of Virginia, physical examinations are not required for any child whose parent objects on religious grounds. The parent must submit a signed statement noting that the parent objects on religious grounds and certifying that to the best of the parent's knowledge the child is in good health and free from communicable or contagious disease.

22 VAC 40-185-150. Form and content of immunizations and physical examination reports for children.

A. The current form required by the Virginia Department of Health or a physician's form shall be used to report immunizations received and the results of the required physical examination.

B. Each report shall include the date of the physical examination and dates immunizations were received and shall be signed by a physician, his designee, or an official of a local health department.

22 VAC 40-185-160. Tuberculosis screening for staff and independent contractors.

A. Each staff member and individual from an independent contractor shall submit documentation of a negative tuberculosis screening.

   Documentation of the screening shall be submitted no later than 21 days after employment or volunteering and shall have been completed within 12 months prior to or 21 days after employment or volunteering.

B. Acceptable forms of documentation of tuberculosis screening are:

   1. A clearance statement signed by a physician, the physician's designee or an official of the local health department. This statement shall include language that the individual does not have any current symptoms of active tuberculosis, does not have either a risk factor for acquiring tuberculosis infection or a risk factor for progression to active tuberculosis disease as defined by the local health department, or has been treated for these conditions in the past, and is currently free of tuberculosis in a communicable form. Individuals who have a risk factor for progression to active tuberculosis disease as defined by the Virginia Department of Health shall submit documentation as stated in subdivision 2 or 3 of this subsection;

   2. The results of a negative tuberculin skin test (TST). The documentation shall include the date the test was given and results of the test and be signed by a physician, physician's designee or an official of the local health department.

   3. The results of a chest x-ray negative for active tuberculosis disease. The documentation shall include the date of the test and location where the examination was performed.

22 VAC 40-185-160. Tuberculosis screening for staff and independent contractors.

C. At least every two years from the date of the initial screening or testing, or more frequently if recommended by a licensed physician or the local health department, staff members and individuals from independent contractors shall obtain and submit the results of a follow-up tuberculosis screening as stated in subsection B of this section.

D. Any staff member or individual from an independent contractor who develops symptoms compatible with active tuberculosis disease, regardless of the date of the last tuberculosis screening or assessment, shall obtain and submit within 14 days a determination of noncontagiousness by a physician or local health department.

1. Until such determination is made, that staff member may not be permitted to work at the center.

2. Any staff member or individual from an independent contractor who comes in contact with a known active case of tuberculosis or who tests positive on a tuberculin skin test, regardless of the date of the last tuberculosis screening or assessment, shall submit within 30 days a statement indicating that all needed follow-up for the incident has been completed and that the individual is free of tuberculosis in a communicable form. This statement shall be signed by a physician, physician's designee or an official of the local health department.

22 VAC 40-185-170. Physical and mental health of staff and volunteers.

A. When there is evidence that the safety of children may be jeopardized by contact with a staff member or volunteer because of the physical health or mental health of such staff member or volunteer, the licensee shall, at a minimum, prohibit the employee or volunteer from engaging in contact with the children or participation in the food service program until a physician or a clinical psychologist skilled in the diagnosis and treatment of mental illness confirms that any risk has been eliminated or can be reduced to an acceptable level by reasonable accommodations.

B. The requirement of subsection A of this section should not be construed as a mandatory precondition to any other employment action that an employer may otherwise take.

PART III
STAFF QUALIFICATIONS AND TRAINING

22 VAC 40-185-180. General qualifications.

A. No staff shall be guilty of an offense, as defined in § 63.2-1719 of the Code of Virginia.

B. Staff shall be:

1. Of good character and reputation;

2. Capable of carrying out assigned responsibilities;

3. Capable of accepting training and supervision; and

4. Capable of communicating effectively both orally and in writing as applicable to the job responsibility.

C. Staff who work directly with children shall be capable of communicating with emergency personnel.

D. Staff who drive a vehicle transporting children shall disclose any moving traffic violation that occurred five years prior to or during employment or assignment as a driver.

E. For therapeutic child day programs and special needs child day programs, staff who work with children shall have knowledge of the groups being served and skills specific to the special needs of the children in care including, but not limited to, functional abilities, accommodations, assessment techniques, behavior management, and medical and health concerns.

22 VAC 40-185-190. Program director qualifications.

A. Program directors shall be at least 21 years of age and shall meet one of the following:

1. A graduate degree in a child-related field such as, but not limited to, elementary education, nursing, or recreation from a college or university and six months of programmatic experience;

2. An endorsement or bachelor's degree in a child-related field such as, but not limited to, elementary education, nursing, or recreation from a college or university and one year of programmatic experience;

22 VAC 40-185-190. Program director qualifications.

3. Forty-eight semester hours or 72 quarter hours of college credit from a college or university of which 12 semester hours or 18 quarter hours are in child-related subjects and one year of programmatic experience;

4. Two years of programmatic experience with one year in a staff supervisory capacity and at least one of the following education backgrounds:

    a. A one-year early childhood certificate from a college or university that consists of at least 30 semester hours;

    b. A child development credential that requires:

        (1) High school program completion or the equivalent;

        (2) 480 hours working with children in a group which could include a supervised practicum; and

        (3) Determination of competency in promoting children's development, providing a safe and healthy environment, managing the classroom environment and/or childhood program, and promoting positive and productive relationships with parents/guardians; and

        (4) At least 120 clock hours of child-related training taught by an individual or by an organization with expertise in early childhood teacher preparation provided that the training facilitator:

            (a) Documents the student's mastery and competence;

            (b) Observes the student's application of competence in a classroom setting;

            (c) Has a combination of at least six years of education (leading to a degree or credential in a child-related field) or programmatic experience; and

            (d) Has at least 12 semester hours or 180 clock hours in a child-related field, a child development credential or equivalent, and two years of programmatic experience with one year in a staff supervisory capacity; or

    c. A certification of qualification from an internationally or nationally recognized Montessori organization; or

22 VAC 40-185-190. Program director qualifications.

5. Three years of programmatic experience including one year in a staff supervisory capacity and fulfilled a high school program completion or the equivalent.

    a. Such programmatic experience shall be obtained in a child day center that offers a staff training program that includes: written goals and objectives; assessment of the employee's participation in the training; and the subject areas of first aid, human growth and development, health and safety issues and behavioral management of children.

    b. Such employees shall complete 120 hours of training during this three-year period and provide documentation of completing the training.

    c. Effective June 1, 2008, program directors shall meet a qualification as stated in subdivisions 1 through 4 of this subsection.

6. Exception (a): Program directors hired before June 1, 2005, who do not meet the qualifications may continue to be program directors as long as the program director: (i) obtains each year three semester hours or six quarter hours of college credit related to children until meeting a qualification option or (ii) is enrolled in and regularly works toward a child development credential as specified in subdivision 4 b of this subsection, which credential must be awarded by June 1, 2009.

    Exception (b): Program directors hired or promoted on or after June 1, 2005, until June 1, 2006, who do not meet the qualifications may continue to be program directors as long as the program director: (i) obtains each year six semester hours or nine quarter hours of college credit related to children until meeting a qualification option or (ii) is enrolled in and regularly works toward a child development credential as specified in subdivision 4 b of this subsection, which credential must be awarded no later than June 1, 2007.

B. Program directors without management experience shall have one college course in a business-related field, 10 clock hours of management training, or one child care management course that satisfactorily covers the management functions of:

1. Planning;

2. Budgeting;

3. Staffing; and

4. Monitoring.

22 VAC 40-185-190. Program director qualifications.

*Note: Management experience is defined as at least six months of on-the-job training in an administrative position that requires supervising, orienting, training, and scheduling staff.

C. For program directors of therapeutic child day programs and special needs child day programs, education and programmatic experience shall be in the group care of children with special needs.

D. Notwithstanding subsection A of this section, a person between 19 and 21 years of age may serve as a program director at a short-term program serving only school age children if the program director has daily supervisory contact by a person at least 21 years of age who meets one of the program director qualification options.

22 VAC 40-185-200. Program directors and back-up for program directors.

A. The center shall have a qualified program director or a qualified back-up program director who meets one of the director qualifications who shall regularly be on site at least 50% of the center's hours of operation.

B. For centers offering multiple shifts, a qualified program director or qualified back-up director shall regularly be on site at least 50% of the day shift and at least two hours during the evening shift and two hours during the night shift.

C. For centers employing one or more program leaders who are qualified under subsection C of 22VAC40-185-210 but not under subsection A of that section, the qualified program director or qualified back-up program director shall be on site at least 75% of the center's hours of operation.

22 VAC 40-185-210. Program leader qualifications.

A. Program leaders shall be at least 18 years of age, have fulfilled a high school program completion or the equivalent, and meet one of the following:

1. Have one of the program director qualifications in 22VAC40-185-190;

2. Have an endorsement or bachelor's degree in a child-related field such as, but not limited to, elementary education, nursing, or recreation, from a college or university;

22 VAC 40-185-210. Program leader qualifications.

3. Have three months of programmatic experience and at least one of the following education backgrounds:

    a. A one year early childhood certificate from a college or university that consists of at least 30 semester hours;

    b. A child development credential by an organization listed in § 63.2-1738 of the Code of Virginia;

    c. A teaching diploma from an internationally or nationally recognized Montessori organization; or

4. Have six months of supervised programmatic experience.

    a. Within six months before being promoted or beginning work or one month after being promoted or beginning work, a minimum of 12 hours of training shall be received related to the care of children, including but not limited to:

        (1) Child development;

        (2) Playground safety;

        (3) Health and safety issues; and

        (4) Preventing and reporting child abuse and neglect.

    b. Such training may take place on site while not supervising children. Such training hours shall increase according to the following:

        (1) Program leaders hired or promoted after June 1, 2001 – 16 hours

        (2) Program leaders hired or promoted after June 1, 2007 – 20 hours

        (3) Program leaders hired or promoted after June 1, 2008 – 24 hours

B. For program leaders of therapeutic child day programs and special needs child day programs, at least three months of programmatic experience shall be in the group care of children with special needs.

22 VAC 40-185-210. Program leader qualifications.

C. Notwithstanding the experience requirements in subsection A of this section, program leaders at short-term programs may have only one season of programmatic experience, provided that this experience shall include at least 200 hours, of which up to 24 hours can be formal training, working directly with children in a group.

22VAC40-185-220. Aides.

Aides shall be at least 16 years of age.

22 VAC 40-185-230. Independent contractors; volunteers.

A. Individuals from independent contractors shall not be counted in the staff-to-children ratios unless they meet the qualifications for the applicable position.

B. Individuals from independent contractors who do not meet staff qualifications shall, when in the presence of children, be within sight and sound supervision of a staff member.

C. Volunteers who work with children shall be at least 13 years of age.

22 VAC 40-185-240. Staff training and development.

A. Staff shall receive the following training by the end of their first day of assuming job responsibilities:

1. Job responsibilities and to whom they report;

2. The policies and procedures listed in subsection B of this section and 22VAC40-185-420 A that relate to the staff member's responsibilities;

3. The center's playground safety procedures unless the staff member will have no responsibility for playground activities or equipment;

4. Recognizing child abuse and neglect and the legal requirements for reporting suspected child abuse as required by § 63.2-1509 of the Code of Virginia;

5. Confidential treatment of personal information about children in care and their families; and

6. The standards in this chapter that relate to the staff member's responsibilities.

22 VAC 40-185-240. Staff training and development.

B. By the end of the first day of supervising children, staff shall be provided in writing with the information listed in 22VAC40-185-420 A and the following:

1. Procedures for supervising a child who may arrive after scheduled classes or activities including field trips have begun;

2. Procedures to confirm absence of a child when the child is scheduled to arrive from another program or from an agency responsible for transporting the child to the center;

3. Procedures for identifying where attending children are at all times, including procedures to ensure that all children are accounted for before leaving a field trip site and upon return to the center;

4. Procedures for action in case of lost or missing children, ill or injured children, medical emergencies and general emergencies;

5. Policy for any administration of medication; and

6. Procedures for response to natural and man-made disasters.

C. Program directors and staff who work directly with children shall annually attend 10 hours of staff development activities that shall be related to child safety and development and the function of the center. Such training hours shall increase according to the following:

1. June 1, 2006 - 12 hours

2. June 1, 2007 - 14 hours

3. June 1, 2008 - 16 hours

4. Staff development activities to meet this subsection may include up to two hours of training in first aid or cardiopulmonary resuscitation. Staff development activities to meet this subsection may not include rescue breathing and first responder as required by 22VAC40-185-530 and training in medication administration and daily health observation of children as required by subsection D of this section.

22 VAC 40-185-240. Staff training and development.

5. Exception (a): Staff who drive a vehicle transporting children and do not work with a group of children at the center do not need to meet the annual training requirement.

   Exception (b): Parents who participate in cooperative preschool centers shall complete four hours of orientation training per year.

   Exception (c): Staff who are employed at a short-term program shall obtain 10 hours of staff training per year.

D. Medication administration and daily health observation

1. To safely perform medication administration practices listed in 22VAC40-185-510, whenever the center has agreed to administer prescribed medications, the administration shall be performed by a staff member or independent contractor who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or pharmacist; or administration shall be performed by a staff member or independent contractor who is licensed by the Commonwealth of Virginia to administer medications.

   a. The approved training curriculum and materials shall be reviewed by the department at least every three years and revised as necessary.

   b. Staff required to have the training shall be retrained at three-year intervals.

2. The decision to administer medicines at a facility may be limited by center policy to:

   a. Prescribed medications;

   b. Over-the-counter or nonprescription medications; or

   c. No medications except those required for emergencies or by law.

22 VAC 40-185-240. Staff training and development.

3. To safely perform medication administration practices listed in 22VAC40-185-510, whenever the center has agreed to administer over-the-counter medications other than topical skin gel, cream, or ointment, the administration must be performed by a staff member or independent contractor who has satisfactorily completed a training course developed or approved by the Department of Social Services in consultation with the Department of Health and the Board of Nursing and taught by an R.N., L.P.N., physician, or pharmacist; or performed by a staff member or independent contractor who is licensed by the Commonwealth of Virginia to administer medications.

    a. The course, which shall include competency guidelines, shall reflect currently accepted safe medication administration practices, including instruction and practice in topics such as, but not limited to, reading and following manufacturer's instructions; observing relevant laws, policies and regulations; and demonstrating knowledge of safe practices for medication storage and disposal, recording and reporting responsibilities, and side effects and emergency recognition and response.

    b. The approved training curriculum and materials shall be reviewed by the department at least every three years and revised as necessary.

    c. Staff required to have the training shall be retrained at three-year intervals.

4. Any child for whom emergency medications (such as but not limited to albuterol, glucagon, and epipen) have been prescribed shall always be in the care of a staff member or independent contractor who meets the requirements in subdivision 1 of this subsection.

5. There shall always be at least one staff member on duty who has obtained within the last three years instruction in performing the daily health observation of children.

6. Daily health observation training shall include:

    a. Components of daily health check for children;

    b. Inclusion and exclusion of the child from the class when the child is exhibiting physical symptoms that indicate possible illness;

    c. Descriptions of how diseases are spread and the procedures or methods for reducing the spread of disease;

    d. Information concerning the Virginia Department of Health Notification of Reportable Diseases pursuant to 12VAC5-90-80 and 12VAC5-90-90, also available from the local health department and the website of the Virginia Department of Health; and

22 VAC 40-185-240. Staff training and development.

e. Staff occupational health and safety practices in accordance with Occupational Safety and Health Administration's (OSHA) Bloodborne Pathogens regulation.

E. Before assuming job responsibilities, staff who work with children in therapeutic child day programs and special needs child day programs shall receive training in:

1. Universal precautions procedures;

2. Activity adaptations;

3. Medication administration;

4. Disabilities precautions and health issues; and

5. Appropriate intervention strategies.

F. For therapeutic child day programs and special needs child day programs, staff who work directly with children shall annually attend 24 hours of staff development activities. At least eight hours of this training shall be on topics related to the care of children with special needs.

PART IV
PHYSICAL PLANT

22 VAC 40-185-250. Approval from other agencies; requirements prior to initial licensure.

A. Before issuance of the first license and before use of newly constructed, renovated, remodeled, or altered buildings or sections of buildings, written documentation of the following shall be provided by the center to the licensing representative:

1. Approval by the authority having jurisdiction that each building meets building and fire codes or that a plan of correction has been approved; and

   Exception: Any building which is currently approved for school occupancy and which houses a public or private school during the school year shall be considered to have met the requirements of subdivision 1 of this subsection when housing a center only serving children two and a half years of age or older.

2. Approval from the local health department, or approval of a plan of correction, for meeting requirements for:

   a. Water supply;

   b. Sewage disposal system; and

   c. Food service, if applicable.

B. For buildings built before 1978, the following shall be submitted before the initial license is issued:

1. A written statement from a person licensed in Virginia as an asbestos inspector and management planner as required by § 63.2-1811 of the Code of Virginia

   and the requirements of the Asbestos Hazard Emergency Response Act (15 USC § 2641 et seq.); and

2. A written statement that the response actions to abate any risk to human health have been or will be initiated in accordance with a specific schedule and plan as recommended by the asbestos management planner in accordance with § 63.2-1811 of the Code of Virginia.

C. A notice regarding the presence and location of asbestos containing materials and advising that the asbestos inspection report and management plan are available for review shall be posted.

22 VAC 40-185-250. Approval from other agencies; requirements prior to initial licensure.

Exception: The provisions of subsections B and C of this section do not apply to centers located in buildings required to be inspected according to Article 5 (§ 2.2-1162 et seq.) of Chapter 11 of Title 2.2 of the Code of Virginia.

D. Before the first license is issued, camps shall notify the responsible fire department and the responsible emergency medical service of the camp location and hours of operation.

22 VAC 40-185-260. Approval from other agencies; requirements subsequent to initial licensure.

A. The center shall provide to the licensing representative an annual fire inspection report from the appropriate fire official having jurisdiction.

Exception: If a center is located in a building currently housing a public or private school, the school's annual fire inspection report shall be accepted.

B. After the first license, annual approval from the health department shall be provided, or approvals of a plan of correction, for meeting requirements for:

1. Water supply;

2. Sewage disposal system; and

3. Food service, if applicable.

C. For those buildings where asbestos containing materials are detected and not removed:

1. A signed, written statement that the center is following the recommendations of the management plan shall be submitted to the department before subsequent licenses are issued; and

2. The notice regarding the presence and location of asbestos containing materials and advising that the asbestos inspection report and management plan are available for review shall continue to be posted.

3. Exception: The provisions of this subsection do not apply to child day centers located in buildings required to be inspected according to Article 5 (§ 2.2-1162 et seq.) of Chapter 11 of Title 2.2 of the Code of Virginia.

22 VAC 40-185-270. Building maintenance.

A. Areas and equipment of the center, inside and outside, shall be maintained in a clean, safe and operable condition. Unsafe conditions shall include, but not be limited to, splintered, cracked or otherwise deteriorating wood; chipped or peeling paint; visible cracks, bending or warping, rusting or breakage of any equipment; head entrapment hazards; and protruding nails, bolts or other components that could entangle clothing or snag skin.

B. Heat shall be supplied from a heating system approved in accordance with the Uniform Statewide Building Code (USBC, 13VAC5-62) except for camps. The heating system shall:

1. Be installed to prevent accessibility of children to the system; and

2. Have appropriate barriers to prevent children from being burned, shocked, or injured from heating equipment. In addition, proper supervision shall be available to prevent injury.

3. Exception: In case of emergency, portable heaters may be used in accordance with the manufacturer's instructions.

C. In inside areas occupied by children, the temperature shall be maintained no lower than 68°F.

D. Fans or other cooling systems shall be used when the temperature of inside areas occupied by children exceeds 80°F.

E. Drinking fountains or individual disposable cups with safe drinking water shall be accessible at all times.

F. Equipment shall include, but not be limited to, the following:

1. Outside lighting provided at entrances and exits used by children before sunrise or after sundown; and

2. An in-service, nonpay telephone.

22 VAC 40-185-280. Hazardous substances and other harmful agents.

A. No center shall be located where conditions exist that would be hazardous to the health and safety of children.

22 VAC 40-185-280. Hazardous substances and other harmful agents.

B. Hazardous substances such as cleaning materials, insecticides, and pesticides shall be kept in a locked place using a safe locking method that prevents access by children.

1. If a key is used, the key shall not be accessible to the children.

2. Exception: Cleaning supplies to clean and sanitize the diapering area or toilet chairs do not need to be kept locked during diapering or toilet training time as long as they are inaccessible to children.

C. Pesticides or insecticides shall not be stored in areas used by children or in areas used for food preparation or storage.

D. Cleaning and sanitizing materials shall not be located above food, food equipment, utensils or single-service articles and shall be stored in areas physically separate from food.

E. Cleaning materials (e.g., detergents, sanitizers and polishes) and insecticides/pesticides shall be stored in areas physically separate from each other.

F. Hazardous substances shall be stored in the original container unless this container is of such a large size that its use would be impractical.

G. If hazardous substances are not kept in original containers, the substitute containers shall clearly indicate their contents and shall not resemble food or beverage containers.

H. Cosmetics, medications, or other harmful agents shall not be stored in areas, purses or pockets that are accessible to children.

I. Hazardous art and craft materials shall not be used with children.

J. Smoking shall be prohibited in the interior of a center that is not used for residential purposes.

K. In residential areas of the center and outside the center, smoking shall be prohibited in the presence of children.

22 VAC 40-185-290. General physical plant requirements for centers serving children of preschool age or younger.

In areas used by children of preschool age or younger, the following shall apply:

1. Guardrails and handrails shall be provided in accordance with the USBC (13VAC5-62) in effect at time of first occupancy or construction.

2. Fans, when used, shall be out of reach of children and cords shall be secured so as not to create a tripping hazard.

3. Electrical outlets shall have protective covers that are of a size that cannot be swallowed by children.

22 VAC 40-185-300. General physical plant requirements for centers serving school age children.

A. Any building which is currently approved for school occupancy and which houses a school during the school year shall be considered to have met the building requirements in this regulation when housing a center only serving school age children.

B. Portable camping equipment for heating or cooking that is not required to be approved by the building official shall bear the label of a nationally recognized inspection agency and be used in accordance with the manufacturer's specifications, except for charcoal and wood burning cooking equipment.

C. No cooking or heating shall occur in tents except as provided by the USBC (13VAC5-62).

22 VAC 40-185-310. Areas.

A. Indoor space shall be measured inside wall-to-wall excluding spaces not routinely used by children as referenced in subdivisions 1 and 2 of this subsection:

1. Areas not routinely used for children's activities shall not be calculated as available space.

2. Space not calculated shall include, but not be limited to, offices, hallways, restrooms, kitchens, storage rooms or closets.

22 VAC 40-185-310. Areas.

B. There shall be 25 square feet of indoor space available per child until subdivisions 1 and 2 of this subsection take effect.

1. Effective June 1, 2008, applicants must have 35 square feet of indoor wall-to-wall space per child.

2. Current licensees and subsequent licensees at currently licensed facilities may continue to provide 25 square feet per child.

3. New additions shall have 35 square feet of indoor wall-to-wall space per child effective June 1, 2008.

C. Space in areas used by infants shall be calculated separately from space for older children. There shall be a minimum of 25 square feet of space per infant excluding space occupied by cribs and changing tables or a minimum of 35 square feet of available space per infant including space occupied by cribs and changing tables.

D. Camps for school age children are not required to meet this space requirement. However, when weather prevents outdoor activities, the required indoor space per child shall be provided either at the program site or at a predesignated, approved location off site.

E. When children are on the outdoor play area, at least 75 square feet of space per child shall be provided at any one time.

F. Centers licensed for the care of infants and toddlers shall provide a separate playground area for these children that has at least 25 square feet of unpaved surface per infant/toddler on the outdoor area at any one time. This space may be counted as part of the 75 square feet required in subsection B of this section.

G. A separate space shall be designated for children who are ill or injured.

22 VAC 40-185-320. Restroom areas and furnishings.

A. Centers shall be provided with at least two toilets and two sinks.

B. Each restroom area provided for children shall:

1. Be within a contained area, readily available and within the building used by the children (Exception: Restrooms used by school age children at camps are not required to be located within the building);

2. Have toilets that are flushable;

3. Have sinks located near the toilets and that are supplied with running warm water that does not exceed 120°F (Exception: Camps are exempt from the requirement that running water be warm); and

4. Be equipped with soap, toilet paper, and disposable towels or an air dryer within reach of children.

C. For restrooms available to males, urinals shall not be substituted for more than one-half the required number of toilets.

D. An adult size toilet with privacy shall be provided for staff use. Staff toilets may be counted in the number of required toilets for children only if children are allowed unrestricted access to them.

Exception: Primitive camps are not required to have a toilet with privacy for staff.

E. Centers shall be provided with at least one toilet and one sink per 20 preschool children and at least one standard size toilet and one sink per 30 school age children. When sharing restroom areas with other programs, the children in those programs shall be included in the toilet and sink ratio calculations. The toilet and sink ratio appropriate to the younger age group shall apply.

F. When child size toilets, urinals, and low sinks are not available in restrooms used by children of preschool age and younger, one or more platforms or sets of steps shall be provided.

G. School age children of the opposite sex shall not use the same restroom at the same time.

H. A restroom used for school age children that contains more than one toilet shall have at least one toilet enclosed.

I. Restrooms used by school age children at primitive camps are not required to have:

1. Sinks, if adequate water, supplies, and equipment for hand washing are available; and

2. Flushable toilets, if the number of sanitary privies or portable toilets constructed and operated in accordance with the applicable law and regulations of the Virginia Department of Health meets the toilet ratio stated in subsection E of this section. No privy or outdoor toilet shall be located within 75 feet of other buildings or camp activities.

22 VAC 40-185-330. Play areas.

A. Playgrounds shall be located and designed to protect children from hazards.

B. Where playground equipment is provided, resilient surfacing shall comply with minimum safety standards when tested in accordance with the procedures described in the American Society for Testing and Materials standard F1292-99 as shown in Figures 2 (Compressed Loose Fill Synthetic Materials Depth Chart) and 3 (Use Zones for Equipment) on pages 6-7 of the National Program for Playground Safety's "Selecting Playground Surface Materials: Selecting the Best Surface Material for Your Playground," February 2004, and shall be under equipment with moving parts or climbing apparatus to create a fall zone free of hazardous obstacles. Fall zones are defined as the area underneath and surrounding equipment that requires a resilient surface. A fall zone shall encompass sufficient area to include the child's trajectory in the event of a fall while the equipment is in use. Falls zones shall not include barriers for resilient surfacing. Where steps are used for accessibility, resilient surfacing is not required.

C. Ground supports shall be covered with materials that protect children from injury.

D. Swing seats shall be constructed with flexible material.

1. Exceptions: Nonflexible molded swing seats may be used only in a separate infant or toddler play area.

2. Swings made specifically for a child with a special need shall be permitted in any area as long as a staff member is positioned to see and protect other children who might walk into the path of the swing.

E. Sandboxes with bottoms which prevent drainage shall be covered when not in use.

F. A shady area shall be provided on playgrounds during the months of June, July, and August.

EXCEPTION: The requirements of this section shall not prohibit child day programs providing care for school-age children at a location that is currently approved by the Department of Education or recognized as a private school by the State Board of Education for school occupancy and that houses a public or private school during the school year from permitting school-age children to use outdoor play equipment and areas approved for use by students of the school during school hours.

Part V
STAFFING AND SUPERVISION

22 VAC 40-185-340. Supervision of children.

A. When staff are supervising children, they shall always ensure their care, protection, and guidance.

B. During the center's hours of operation, one adult on the premises shall be in charge of the administration of the center. This person shall be either the administrator or an adult appointed by the licensee or designated by the administrator.

C. During the stated hours of operation, there always shall be on the premises and on field trips when one or more children are present one staff member who meets the qualifications of a program leader or program director and an immediately available staff member, volunteer or other employee who is at least 16 years of age, with direct means for communication between the two of them. The volunteer or other employee shall have received instruction in how to contact appropriate authorities if there is an emergency.

D. In each grouping of children at least one staff member who meets the qualifications of a program leader or program director shall be regularly present. Such a program leader shall supervise no more than two aides.

E. Exception: A program leader is not required in each grouping of children during the first and last hour of operation when a center operates more than six hours per day and during the designated rest period if the following are met: (i) there is a staff member in the group who is over 18 years of age and has at least three months of programmatic experience at the center; (ii) there is an additional staff person on site who meets program leader qualifications, is not counted in the staff-to-children ratios and is immediately available to help if needed; and (iii) there is a direct means for communicating between these two staff members.

F. Children under 10 years of age always shall be within actual sight and sound supervision of staff, except that staff need only be able to hear a child who is using the restroom provided that:

1. There is a system to assure that individuals who are not staff members or persons allowed to pick up a child in care do not enter the restroom area while in use by children; and

22 VAC 40-185-340. Supervision of children

2. Staff check on a child who has not returned from the restroom after five minutes. Depending on the location and layout of the restroom, staff may need to provide intermittent sight supervision of the children in the restroom area during this five-minute period to assure the safety of children and to provide assistance to children as needed.

G. Children 10 years of age and older shall be within actual sight and sound supervision of staff except when the following requirements are met:

1. Staff can hear or see the children (video equipment, intercom systems, or other technological devices shall not substitute for staff being able to directly see or hear children);

2. Staff are nearby so they can provide immediate intervention if needed;

3. There is a system to ensure that staff know where the children are and what they are doing;

4. There is a system to ensure that individuals who are not staff members or persons allowed to pick up children in care do not enter the areas where children are not under sight supervision; and

5. Staff provide sight and sound supervision of the children at variable and unpredictable intervals not to exceed 15 minutes.

H. When the outdoor activity area is not adjacent to the center, there shall be at least two staff members on the outdoor activity area whenever one or more children are present.

I. Staff shall greet each child upon arrival at the center and oversee each child's departure from the center.

J. Staff shall not allow a child to leave the center unsupervised.

22 VAC 40-185-350. Staff-to-children ratio requirements.

A. Staff shall be counted in the required staff-to-children ratios only when they are directly supervising children.

B. A child volunteer 13 years of age or older not enrolled in the program shall not be counted as a child in the staff-to-children ratio requirements.

C. When children are regularly in ongoing mixed age groups, the staff-to-children ratio applicable to the youngest child in the group shall apply to the entire group.

D. During the designated rest period and the designated sleep period of evening and overnight care programs, the ratio of staff to children may be double the number of children to each staff required by subdivisions E 2 through 4 and 7 of this section if:

1. A staff person is within sight and sound of the resting/sleeping children;

2. Staff counted in the overall rest period ratio are within the building and available to ensure safe evacuation in an emergency; and

3. An additional person is present at the center to help, if necessary.

E. The following ratios of staff to children are required wherever children are in care:

1. For children from birth to the age of 16 months: one staff member for every four children;

2. For children 16 months old to two years: one staff member for every five children;

3. For two-year-old children: one staff member for every eight children effective June 1, 2006;

4. For children from three years to the age of eligibility to attend public school, five years by September 30: one staff member for every 10 children effective June 1, 2006;

5. For children from age of eligibility to attend public school through eight years, one staff member for every 18 children; and

6. For children from nine years through 12 years, one staff member for every 20 children effective June 1, 2006.

22 VAC 40-185-350. Staff-to-children ratio requirements.

7. Notwithstanding subdivisions 4 and 5 of this subsection and subsection C of this section, the ratio for balanced mixed-age groupings of children shall be one staff member for every 14 children, provided:

    a. If the program leader has an extended absence, there shall be sufficient substitute staff to meet a ratio of one staff member for every 12 children.

    b. The center shall have readily accessible and in close classroom proximity auxiliary persons sufficient to maintain a 1:10 adult-to-child ratio for all three-year-olds who are included in balanced mixed-age groups to be available in the event of emergencies.

    c. The program leader has received training in classroom management of balanced mixed-age groupings of at least eight hours.

F. With a parent's written permission and a written assessment by the program director and program leader, a center may choose to assign a child to a different age group if such age group is more appropriate for the child's developmental level and the staff-to-children ratio shall be for the established age group.

1. If such developmental placement is made for a child with a special need, a written assessment by a recognized agency or professional shall be required at least annually. These assignments are intended to be a permanent new group and staff members for the child.

2. A center may temporarily reassign a child from his regular group and staff members for reasons of administrative necessity but not casually or repeatedly disrupt a child's schedule and attachment to his staff members and group.

G. For therapeutic child day programs, in each grouping of children of preschool age or younger, the following ratios of staff to children are required according to the special needs of the children in care:

1. For children with severe and profound disabilities, multiple special needs, serious medical need, or serious emotional disturbance: one staff member to three children.

2. For children diagnosed as trainable mentally retarded (TMR), or with physical and sensory disabilities, or with autism: one staff member to four children.

3. For children diagnosed as educable mentally retarded (EMR) or developmentally delayed or diagnosed with attention deficit/hyperactivity disorder (AD/HD): one staff member to five children.

22 VAC 40-185-350. Staff-to-children ratio requirements.

4. For children diagnosed with specific learning disabilities: one staff member to six children.

5. When children with varied special needs are regularly in ongoing groups, the staff-to-children ratio applicable to the child with the most significant special need in the group shall apply to the entire group.

6. Note: Whenever 22VAC40-185-350 E requires more staff than 22VAC40-185-350 G because of the children's ages, 22VAC40-185-350 E shall take precedence over 22VAC40-185-350 G.

H. For therapeutic child day programs, in each grouping of school age children, the following ratios of staff to children are required according to the special needs of the children in care:

1. For children with severe and profound disabilities, autism, multiple special needs, serious medical need, or serious emotional disturbance: one staff member to four children.

2. For children diagnosed as trainable mentally retarded (TMR), or with physical and sensory disabilities; attention deficit/hyperactivity disorder (AD/HD), or other health impairments: one staff member to five children.

3. For children diagnosed as educable mentally retarded (EMR), or developmentally delayed: one staff member to six children.

4. For children diagnosed with specific learning disabilities, or speech or language impairments: one staff member to eight children.

5. When children with varied special needs are regularly in ongoing groups, the staff-to-children ratio applicable to the child with the most significant special need in the group shall apply to the entire group.

Part VI
PROGRAMS

22 VAC 40-185-360. Daily activities.

A. The variety of daily activities for all age groups shall be age and stage appropriate and provide opportunities for teacher-directed, self-directed, and self-chosen tasks and activities; a balance of active and quiet activities; individual and group activities; and curiosity and exploration.

B. Exception: Specialty camps do not need to provide opportunities for self-chosen tasks and curiosity and exploration.

C. For a child who cannot move without help, staff shall offer to change the places and position of the child at least every 30 minutes or more frequently depending on the child's individual needs.

D. Children shall be allowed to sleep or rest as individually needed.

E. For a child in a therapeutic child day program, daily activities shall be in accordance with the program's individual plan for such child.

22 VAC 40-185-370. Daily activities for infants.

There shall be a flexible daily schedule for infants based on their individual needs. During the day, infants shall be provided with:

1. Sleep as needed.

    a. When an infant is placed in his crib, he shall be placed on his back (supine).

    b. When an infant is able to easily turn over from the back (supine) to the belly (prone) position and he is placed in his crib, he shall still be put on his back (supine) but allowed to adopt whatever position he prefers. This applies unless otherwise directed by the infant's physician in writing.

    c. If the side position is used, caregivers shall bring the dependent arm forward to lessen the likelihood of the infant rolling into a belly (prone) position.

    d. Resting or sleeping infants shall be individually checked every 15-20 minutes.

22 VAC 40-185-370. Daily activities for infants.

e. An infant who falls asleep in a play space specified in subdivision 5 a of this section may remain in that space if comfortable and safe.

2. Food as specified in 22VAC40-185-560 and 22VAC40-185-570.

3. Outdoor time if weather and air quality allow based upon the Air Quality Color Code Chart as provided by the Department of Environmental Quality.

4. Comfort as needed.

5. Play spaces.

a. Play spaces may include, but are not limited to, cribs, infant seats, play yards, exercise chairs or saucers (but not walkers), infant swings, high chairs, and floor space.

b. The variety of play spaces shall cumulatively offer:

(1) Room for extensive movement (rolling, crawling, or walking) and exploration;

(2) A diversity of sensory and perceptual experiences; and

(3) Equipment and toys that support large and small motor development.

c. Staff shall provide frequent opportunities for infants to creep, crawl, toddle and walk.

d. Infants shall be protected from older children.

e. Staff shall provide awake infants not playing on the floor or ground a change in play space at least every 30 minutes or more often as determined by the individual infant's needs.

f. Staff shall change the position of an awake infant playing on the floor or ground and the selection of toys available to the infant every 30 minutes or more often as determined by the individual infant's needs.

g. Infants, who cannot turn themselves over and are awake, shall be placed on their stomachs a total of 30 minutes each day to facilitate upper body strength and to address misshapen head concerns.

22 VAC 40-185-370. Daily activities for infants.

6. Stimulation and language development activities, including but not limited to staff reading, talking to, showing pictures to, naming objects for, playing with and engaging in positive interactions (such as smiling, cuddling, and making eye contact) with infants.

22 VAC 40-185-380. Daily activities for toddlers and preschoolers.

A. There shall be a posted daily schedule that allows for flexibility as children's needs require. The daily schedule need not apply on days occupied a majority of the time by a field trip or other special event. The daily schedule shall include opportunities for:

1. Outdoor activity, weather and air quality allowing, for at least:

   a. Fifteen minutes per day or session if the center operates up to three hours per day or session;

   b. Thirty minutes per day or session if the center operates between three and five hours per day or session; or

   c. One hour per day or session if the center operates more than five hours per day or session.

2. Sleep or rest.

   a. Centers operating five or more hours per day shall have a designated rest period for at least one hour but no more than two hours.

      (1) Cribs, cots, beds, or mats shall be used.

      (2) After the first 30 minutes, children not sleeping may engage in quiet activities.

   b. A child who falls asleep in a place other than his designated sleeping location may remain in that space if comfortable and safe.

   c. Sleeping toddlers shall be individually checked every 30 minutes.

3. Meals and snacks as specified in 22VAC40-185-560 and 22VAC40-185-570.

22 VAC 40-185-380. Daily activities for toddlers and preschoolers.

4. Small and large motor activities, language and communication experiences, sensory experiences, art or music activities, and play acting or social living.

B. Staff shall encourage language development by having conversations with children that give them time to initiate and respond, by labeling and describing objects and events, having storytelling time and by expanding the children's vocabulary.

22 VAC 40-185-390. Daily activities for school age children.

A. Before or after school, the center shall provide an opportunity for children to do homework or projects or hobbies in a suitable area. In the afternoon, there shall be an opportunity for large motor activities at least 25% of the time.

B. On nonschool days, the daily activity shall include opportunities for large motor activities at least 25% of the time; small motor activities; projects, hobbies, or homework in a suitable place; art or music activities; outdoor activity in accordance with 22VAC40-185-380 A 1 and food as specified in 22VAC40-185-560 and 22VAC40-185-570.

Exception: Specialty camps are not required to meet the requirements of this subsection.

22 VAC 40-185-400. Behavioral guidance.

A. In order to promote the child's physical, intellectual, emotional, and social well-being and growth, staff shall interact with the child and one another to provide needed help, comfort, support and:

1. Respect personal privacy;

2. Respect differences in cultural, ethnic, and family backgrounds;

3. Encourage decision-making abilities;

4. Promote ways of getting along;

5. Encourage independence and self-direction; and

6. Use consistency in applying expectations.

B. Behavioral guidance shall be constructive in nature, age and stage appropriate, and shall be intended to redirect children to appropriate behavior and resolve conflicts.

22 VAC 40-185-410. Forbidden actions.

The following actions or threats thereof are forbidden:

1. Physical punishment, striking a child, roughly handling or shaking a child, restricting movement through binding or tying, forcing a child to assume an uncomfortable position, or exercise as punishment;

2. Enclosure in a small confined space or any space that the child cannot freely exit himself; however, this does not apply to the use of equipment such as cribs, play yards, high chairs, and safety gates when used with children preschool age or younger for their intended purpose;

3. Punishment by another child;

4. Separation from the group so that the child is away from the hearing and vision of a staff member;

5. Withholding or forcing of food or rest;

6. Verbal remarks which are demeaning to the child;

7. Punishment for toileting accidents; and

8. Punishment by applying unpleasant or harmful substances.

22 VAC 40-185-420. Parental involvement.

A. Before the child's first day of attending, parents shall be provided in writing the following:

1. The center's philosophy and any religious affiliation;

2. Operating information, including the hours and days of operation and holidays or other times closed, and the phone number where a message can be given to staff;

3. The center's transportation policy;

4. The center's policies for the arrival and departure of children, including procedures for verifying that only persons authorized by the parent are allowed to pick up the child, picking up children after closing, when a child is not picked up for emergency situations including but not limited to inclement weather or natural disasters;

22 VAC 40-185-420. Parental involvement.

5. The center's policy regarding any medication or medical procedures that will be given;

6. The center's policy regarding application of:

   a. Sunscreen;

   b. Diaper ointment or cream; and

   c. Insect repellent.

7. Description of established lines of authority for staff;

8. Policy for reporting suspected child abuse as required by § 63.2-1509 of the Code of Virginia;

9. The custodial parent's right to be admitted to the center as required by § 63.2-1813 of the Code of Virginia;

10. Policy for communicating an emergency situation with parents;

11. The appropriate general daily schedule for the age of the enrolling child;

12. Food policies;

13. Discipline policies including acceptable and unacceptable discipline measures; and

14. Termination policies.

B. Staff shall promptly inform parents when persistent behavioral problems are identified; such notification shall include any disciplinary steps taken in response.

C. A custodial parent shall be admitted to any child day program. Such right of admission shall apply only while the child is in the child day program (§ 63.2-1813 of the Code of Virginia).

D. The center shall provide opportunities for parental involvement in center activities.

22 VAC 40-185-420. Parental involvement.

E. Communication.

1. For each infant, the center shall post a daily record which can be easily accessed by both the parent and the staff working with the child. The record shall contain the following information:

    a. The amount of time the infant slept;

    b. The amount of food consumed and the time;

    c. A description and time of bowel movements;

    d. Developmental milestones; and

    e. For infants, who are awake and cannot turn over by themselves, the amount of time spent on their stomachs.

2. If asked by parents, staff shall provide feedback about daily activities, physical well-being, and developmental milestones.

3. Parents shall be provided at least semiannually in writing information on their child's development, behavior, adjustment, and needs.

    a. Staff shall provide at least semiannual scheduled opportunities for parents to provide feedback on their children and the center's program.

    b. Staff shall request at least annually parent confirmation that the required information in the child's record is up to date.

    c. Such sharing of information shall be documented.

    d. Short-term programs (as defined in 22VAC40-185-10) are exempt from this requirement.

4. Parents shall be informed of reasons for termination of services.

22 VAC 40-185-430. Equipment and materials.

A. Furnishings, equipment, and materials shall be of an appropriate size for the child using it.

B. Materials and equipment available shall be age and stage appropriate for the children and shall include an adequate supply as appropriate for each age group of arts and crafts materials, texture materials, construction materials, music and sound materials, books, social living equipment, and manipulative equipment.

C. Play equipment used by children shall meet the following requirements:

1. Openings above the ground or floor which allow a 3-1/2 inch by 6-1/4 inch rectangle to fit through shall also allow a nine-inch circle to fit through;

2. S-hooks where provided may not be open more than the thickness of a penny; and

3. Have no protrusions, sharp points, shearing points, or pinch points.

D. The unenclosed climbing portion of slides and climbing equipment used by toddlers and preschool children shall not be more than seven feet high and must be located over resilient surfacing where outdoors, and shall not be more than five feet high where indoors.

E. Centers may not install after June 1, 2005, any slide or climbing equipment to be used by preschoolers or toddlers when the climbing portion of the equipment is more than six feet in height.

F. The climbing portions of indoor slides and climbing equipment over 18 inches shall not be over bare flooring.

G. The climbing portions of indoor slides and climbing equipment 36 inches or more shall be located over a resilient surface.

H. Trampolines may not be used.

EXCEPTION: The requirements of subsections A through H of this section shall not prohibit child day programs providing care for school-age children at a location that is currently approved by the Department of Education or recognized as a private school by the State Board of Education for school occupancy and that houses a public or private school during the school year from permitting school-age children to use outdoor play equipment and areas approved for use by students of the school during school hours.

22 VAC 40-185-430. Equipment and materials.

I. If combs, toothbrushes, or other personal articles are used, they shall be individually assigned.

J. Disposable products shall be used once and discarded.

K. Provision shall be made for an individual place for each child's personal belongings.

L. Infant walkers shall not be used.

M. Play yards where used shall:

1. Meet the Juvenile Products Manufacturers Association (JPMA) and the American Society for Testing and Materials (ASTM) requirements and shall retain the manufacturer's label documenting product compliance with current safety standards at the time they were manufactured;

2. Not be used after recalled;

3. Not use any pillows or filled comforters;

4. Not be used for the designated sleeping areas;

5. Not be occupied by more than one child; and

6. Be sanitized each day of use or more often as needed.

N. Upon being informed that a product has been recalled, center staff shall remove the item from the center.

O. Where portable water coolers are used, they shall be of cleanable construction, maintained in a cleaned condition, kept securely closed and so designed that water may be withdrawn from the container only by water tap or faucet.

P. Drinking water which is transported to camp sites shall be in closed containers.

Q. Therapeutic child day programs and special needs child day programs serving children who use wheelchairs shall provide cushioned vinyl-covered floormats for use when activities require children to be out of their wheelchairs.

22 VAC 40-185-440. Cribs, cots, rest mats, and beds.

A. Cribs, cots, rest mats or beds shall be provided for children during the designated rest period and not be occupied by more than one child at a time.

B. Cribs, cots, rest mats, and beds shall be identified for use by a specific child.

C. Double decker cribs, cots, or beds, or other sleeping equipment when stacked shall not be permitted.

D. Occupied cribs, cots, rest mats, and beds shall be at least 2-1/2 feet from any heat producing appliance.

E. There shall be at least 12 inches of space between occupied cots, beds, and rest mats.

Exception: Twelve inches of space are not required where cots, beds, or rest mats are located adjacent to a wall or a divider as long as one side is open at all times to allow for passage.

F. If rest mats are used, they shall have cushioning and be sanitized on all sides weekly or before use by another child.

G. Cribs shall be used for children under 12 months of age and for children over 12 months of age who are not developmentally ready to sleep on a cot or mat.

H. Cribs shall meet the following requirements:

1. They shall meet the Consumer Product Safety Commission Standards at the time they were manufactured;

2. They shall not have been recalled;

3. There shall be no more than six centimeters or 2-3/8 inches of space between slats;

4. There shall be no more than one inch between the mattress and the crib; and

5. End panel cut-outs in cribs shall be of a size not to cause head entrapment.

I. Cribs shall be placed where objects outside the crib such as cords from blinds or curtains are not within reach of infants or toddlers.

22 VAC 40-185-440. Cribs, cots, rest mats, and beds

J. There shall be at least:

1. Twelve inches of space between the sides and ends of occupied cribs except where they touch the wall; and

2. Thirty inches of space between service sides of occupied cribs and other furniture where that space is the walkway for staff to gain access to any occupied crib.

K. Crib sides shall be up and the fastenings secured when a child is in the crib, except when a staff member is giving the child immediate attention.

L. Pillows and filled comforters shall not be used by children under two years of age.

M. Use of crib bumper pads shall be prohibited.

N. Toys or objects hung over an infant in a crib and crib gyms that are strung across the crib may not be used for infants over five months of age or infants who are able to push up on their hands and knees.

22 VAC 40-185-450. Linens.

A. Cribs, cots, mats and beds used by children other than infants during the designated rest period or during evening and overnight care shall have linens consisting of a top cover and a bottom cover or a one-piece covering which is open on three edges. Cribs when being used by infants shall have a bottom cover.

B. Linens shall be assigned for individual use.

C. Linens shall be clean and washed at least weekly.

1. Crib sheets shall be clean and washed daily.

2. When centers wash the linens, the water shall be above 140°F or the dryer shall heat the linens above 140°F as verified by the manufacturer or a sanitizer shall be used according to the manufacturer's instructions.

D. Pillows when used shall be assigned for individual use and covered with pillow cases.

E. Mattresses when used shall be covered with a waterproof material which can be cleaned and sanitized.

22 VAC 40-185-460. Swimming and wading activities; staff and supervision.

A. The staff-to-children ratios required by 22VAC40-185-350 E, G, and H shall be maintained while children are participating in swimming or wading activities.

   1. Notwithstanding the staff-to-children ratios already indicated, at no time shall there be fewer than two staff members supervising the activity.

   2. The designated certified lifeguard shall not be counted in the staff-to-children ratios.

B. If a pool, lake, or other swimming area has a water depth of more than two feet, a certified lifeguard holding a current certificate shall be on duty supervising the children participating in swimming or wading activities at all times when one or more children are in the water.

C. The lifeguard certification shall be obtained from an organization such as, but not limited to, the American Red Cross, the YMCA, or the Boy Scouts.

22 VAC 40-185-470. Pools and equipment.

A. When permanent swimming or wading pools are located on the premises of the center, the following shall apply:

   1. The manufacturer's specifications for operating the pool shall be followed as well as any local ordinances and any Department of Health requirements for swimming pools;

   2. Pools constructed, renovated, or remodeled after April 1, 1986, shall have a statement in writing of their inspection and approval from the local building official when such approval is required;

   3. Outdoor swimming pools shall be enclosed by safety fences and gates which are in compliance with the applicable edition of the Virginia USBC (13VAC5-62) and shall be kept locked when the pool is not in use;

   4. Entrances to indoor swimming pools shall be locked when the pool is not in use; and

   5. A whistle or other audible signaling device, a buoy or a lemon line, a reach pole, and a backboard shall be available at the swimming or wading site.

B. If children are allowed to swim in a lake or other place other than a pool, safe swimming areas shall be clearly marked and there shall be appropriate water safety equipment.

22 VAC 40-185-470. Pools and equipment.

C. Piers, floats, and platforms shall be in good repair and where used for diving, the minimum water depth shall be stated on the deck or planking.

D. If portable wading pools without integral filter systems are used, they shall be emptied after the use of each group of children, rinsed, and filled with clean water, or more frequently as necessary.

E. Children who are not toilet trained may not use portable wading pools.

F. After each day's use, portable wading pools shall be emptied, sanitized, and stored in a position to keep them clean and dry.

22 VAC 40-185-480. Swimming and wading; general.

A. The center shall have emergency procedures and written safety rules for swimming or wading or follow the posted rules of public pools that are:

1. Posted in the swimming area when the pool is located on the premises of the center; and

2. Explained to children participating in swimming or wading activities.

B. The center shall maintain (i) written permission from the parent of each child who participates in swimming or wading and (ii) a statement from the parent advising of a child's swimming skills before the child is allowed in water above the child's shoulder height.

C. Staff shall have a system for accounting for all children in the water.

D. Outdoor swimming activities shall occur only during daylight hours unless underwater and deck lighting is provided.

Part VII
SPECIAL CARE PROVISIONS AND EMERGENCIES

22 VAC 40-185-490. Preventing the spread of disease.

A. A child shall not be allowed to attend the center for the day if he has:

1. A temperature over 101°F;

2. Recurrent vomiting or diarrhea; or

3. A communicable disease.

B. If a child needs to be excluded according to subsection A of this section, the following shall apply:

1. Arrangements shall be made for the child to leave the center as soon as possible after the signs or symptoms are noticed; and

2. The child shall remain in the designated quiet area until leaving the center.

C. When children at the center have been exposed to a communicable disease listed in the Department of Health's current communicable disease chart, the parents shall be notified within 24 hours or the next business day of the center's having been informed unless forbidden by law, except for life threatening diseases, which must be reported to parents immediately.

D. The center shall consult the local department of health if there is a question about the communicability of a disease.

E. When any surface has been contaminated with body fluids, it shall be cleaned and sanitized.

22 VAC 40-185-500. Hand washing and toileting procedures.

A. Hand washing.

1. Children's hands shall be washed with soap and running water or disposable wipes before and after eating meals or snacks.

2. Children's hands shall be washed with soap and running water after toileting and any contact with blood, feces or urine.

3. Staff shall wash their hands with soap and running water before and after helping a child use the toilet or a diaper change, after the staff member uses the toilet, after any contact with body fluids, and before feeding or helping children with feeding.

22 VAC 40-185-500. Hand washing and toileting procedures.

4. Exception: If running water is not available, a germicidal cleansing agent administered per manufacturer's instruction may be used.

B. Diapering; soiled clothing.

1. The diapering area shall be accessible and within the building used by children.

2. There shall be sight and sound supervision for all children when a child is being diapered.

3. The diapering area shall be provided with the following:

   a. A sink with running warm water not to exceed 120°F;

   b. Soap, disposable towels and single use gloves such as surgical or examination gloves;

   c. A nonabsorbent surface for diapering or changing shall be used. For children younger than three years, this surface shall be a changing table or countertop designated for changing;

   d. The appropriate disposal container as required by subdivision 5 of this subsection; and

   e. A leakproof covered receptacle for soiled linens.

4. When a child's clothing or diaper becomes wet or soiled, the child shall be cleaned and changed immediately.

5. Disposable diapers shall be used unless the child's skin reacts adversely to disposable diapers.

6. Disposable diapers shall be disposed in a leakproof or plastic-lined storage system that is either foot-operated or used in such a way that neither the staff member's hand nor the soiled diaper touches an exterior surface of the storage system during disposal.

7. When cloth diapers are used, a separate leakproof storage system as specified in this subdivision shall be used.

22 VAC 40-185-500. Hand washing and toileting procedures.

8. The diapering surface shall be used only for diapering or cleaning children, and it shall be cleaned with soap and at least room temperature water and sanitized after each use. Tables used for children's activities or meals shall not be used for changing diapers.

   Exception: Individual disposable barriers may be used between each diaper change. If the changing surface becomes soiled, the surface shall be cleaned and sanitized before another child is diapered.

9. Staff shall ensure the immediate safety of a child during diapering.

C. Toilet training. For every 10 children in the process of being toilet trained, there shall be at least one toilet chair or one child-sized toilet, or at least one adult sized toilet with a platform or steps and adapter seat.

   1. The location of these items shall allow for sight and sound supervision of children in the classroom if necessary for the required staff-to-children ratios to be maintained.

   2. Toilet chairs shall be emptied promptly and cleaned and sanitized after each use.

22 VAC 40-185-510. Medication.

A. Prescription and nonprescription medication shall be given to a child:

   1. According to the center's written medication policies; and

   2. Only with written authorization from the parent.

B. Nonprescription medication shall be administered by a staff member or independent contractor who meets the requirements in 22VAC40-185-240 D 1 or 22VAC40-185-240 D 3.

C. The center's procedures for administering medication shall:

   1. Include any general restrictions of the center.

   2. For nonprescription medication, be consistent with the manufacturer's instructions for age, duration and dosage.

22 VAC 40-185-510. Medication.

3. Include duration of the parent's authorization for medication, provided that it shall expire or be renewed after 10 work days. Long-term prescription drug use and over-the-counter medication may be allowed with written authorization from the child's physician and parent.

4. Include methods to prevent use of outdated medication.

D. The medication authorization shall be available to staff during the entire time it is effective.

E. Medication shall be labeled with the child's name, the name of the medication, the dosage amount, and the time or times to be given.

F. Nonprescription medication shall be in the original container with the direction label attached.

G. The center may administer prescription medication that would normally be administered by a parent or guardian to a child provided:

1. The medication is administered by a staff member or an independent contractor who meets the requirements in 22VAC40-185-240 D 1;

2. The center has obtained written authorization from a parent or guardian;

3. The center administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container; and

4. The center administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration.

H. When needed, medication shall be refrigerated.

I. When medication is stored in a refrigerator used for food, the medications shall be stored together in a container or in a clearly defined area away from food.

J. Medication, except for those prescriptions designated otherwise by written physician's order, including refrigerated medication and staff's personal medication, shall be kept in a locked place using a safe locking method that prevents access by children.

22 VAC 40-185-510. Medication.

K. If a key is used, the key shall not be accessible to the children.

L. Centers shall keep a record of medication given children, which shall include the following:

1. Child to whom medication was administered;

2. Amount and type of medication administered to the child;

3. The day and time the medication was administered to the child;

4. Staff member administering the medication;

5. Any adverse reactions; and

6. Any medication error.

M. Staff shall inform parents immediately of any adverse reactions to medication administered and any medication error.

N. When an authorization for medication expires, the parent shall be notified that the medication needs to be picked up within 14 days or the parent must renew the authorization. Medications that are not picked up by the parent within 14 days will be disposed of by the center by either dissolving the medication down the sink or flushing it down the toilet.

22 VAC 40-185-520. Over-the-counter skin products.

A. All nonprescription drugs and over-the-counter skin products shall be used in accordance with the manufacturer's recommendations. Nonprescription drugs and over-the-counter skin products shall not be kept or used beyond the expiration date of the product.

B. If sunscreen is used, the following requirements shall be met:

1. Written parent authorization noting any known adverse reactions shall be obtained;

2. Sunscreen shall be in the original container and labeled with the child's name;

3. Sunscreen does not need to be kept locked but shall be inaccessible to children under five years of age or those children in a therapeutic child day program or special needs child day program;

22 VAC 40-185-520. Over-the-counter skin products.

4. Any center-kept sunscreen shall be hypo-allergenic and have a minimum SPF of 15;

5. Staff members without medication administration training may apply sunscreen, unless it is prescription sunscreen, in which case the storing and application of sunscreen must meet medication-related requirements; and

6. Children nine years of age and older may administer their own sunscreen if supervised.

C. If diaper ointment or cream is used, the following requirements shall be met:

1. Written parent authorization noting any known adverse reactions shall be obtained;

2. These products shall be in the original container and labeled with the child's name;

3. These products do not need to be kept locked but shall be inaccessible to children;

4. A record shall be kept that includes the child's name, date of use, frequency of application and any adverse reactions; and

5. Staff members without medication administration training may apply diaper ointment, unless it is prescription diaper ointment, in which case the storing and application of diaper ointment must meet medication-related requirements.

D. If insect repellent is used, the following requirements shall be met:

1. Written parent authorization noting any known adverse reactions shall be obtained;

2. Insect repellent shall be in the original container and labeled with the child's name;

3. Insect repellent does not need to be kept locked but shall be inaccessible to children;

4. A record shall be kept that includes the child's name, date of use, frequency of application and any adverse reactions;

22 VAC 40-185-520. Over-the-counter skin products.

5. Manufacturer's instructions for age, duration and dosage shall be followed; and

6. Staff members without medication administration training may apply insect repellent, unless it is prescription insect repellent, in which case the storing and application of insect repellent must meet medication-related requirements.

22 VAC 40-185-530. First aid training, cardiopulmonary resuscitation (CPR) and rescue breathing.

A. There shall be at least one staff member trained in first aid, cardiopulmonary resuscitation, and rescue breathing as appropriate to the age of the children in care who is on the premises during the center's hours of operation and also one person on field trips and wherever children are in care.

   1. This person shall be available to children; and

   2. This person shall have current certification by the American Red Cross, American Heart Association, National Safety Council, or other designated program approved by the Department of Social Services.

B. Primitive camps shall have a staff member on the premises during the hours of operation who has at least current certification in first responder training.

22 VAC 40-185-540. First aid and emergency supplies.

A. A first aid kit shall be:

   1. On each floor of each building used by children;

   2. Accessible to outdoor play areas;

   3. On field trips; and

   4. Wherever children are in care.

B. Each first aid kit shall be easily accessible to staff but not to children.

22 VAC 40-185-540. First aid and emergency supplies.

C. The required first aid kits shall include at a minimum:

1. Scissors;

2. Tweezers;

3. Gauze pads;

4. Adhesive tape;

5. Band-aids, assorted types;

6. An antiseptic cleansing solution /pads;

7. Thermometer;

8. Triangular bandages;

9. Single use gloves such as surgical or examination gloves; and

10. The first aid instructional manual.

D. The following emergency supplies shall be required at the center and be available on field trips:

1. Activated charcoal preparation (to be used only on the direction of a physician or the center's local poison control center); and

2. An ice pack or cooling agent.

E. The following nonmedical emergency supplies shall be required:

1. One working, battery-operated flashlight on each floor of each building that is used by children; and

2. One working, battery-operated radio in each building used by children and any camp location without a building.

22 VAC 40-185-550. Procedures for emergencies.

A. The center shall have an emergency preparedness plan that addresses staff responsibility and facility readiness with respect to emergency evacuation and shelter-in-place. The plan, which shall be developed in consultation with local or state authorities, addresses the most likely to occur emergency scenario or scenarios, including but not limited to natural disaster, chemical spills, intruder, and terrorism specific to the locality.

B. The emergency preparedness plan shall contain procedural components for:

1. Sounding of alarms (intruder, shelter-in-place such as for tornado, or chemical hazard);

2. Emergency communication to include:

   a. Establishment of center emergency officer and back-up officer to include 24-hour contact telephone number for each;

   b. Notification of local authorities (fire and rescue, law enforcement, emergency medical services, poison control, health department, etc.), parents, and local media; and

   c. Availability and primary use of communication tools;

3. Evacuation to include:

   a. Assembly points, head counts, primary and secondary means of egress, and complete evacuation of the buildings;

   b. Securing of essential documents (sign-in record, parent contact information, etc.) and special healthcare supplies to be carried off-site on immediate notice; and

   c. Method of communication after the evacuation;

4. Shelter-in-place to include:

   a. Scenario applicability, inside assembly points, head counts, primary and secondary means of access and egress;

   b. Securing essential documents (sign-in records, parent contact information, etc.) and special health supplies to be carried into the designated assembly points; and

   c. Method of communication after the shelter-in-place;

22 VAC 40-185-550. Procedures for emergencies.

5. Facility containment procedures, (e.g., closing of fire doors or other barriers) and shelter-in-place scenario (e.g., intruders, tornado, or chemical spills);

6. Staff training requirement, drill frequency, and plan review and update; and

7. Other special procedures developed with local authorities.

C. Emergency evacuation and shelter-in-place procedures/maps shall be posted in a location conspicuous to staff and children on each floor of each building.

D. The center shall implement a monthly practice evacuation drill and a minimum of two shelter-in-place practice drills per year for the most likely to occur scenarios.

E. The center shall maintain a record of the dates of the practice drills for one year. For centers offering multiple shifts, the simulated drills shall be divided evenly among the various shifts.

F. A 911 or local dial number for police, fire and emergency medical services and the number of the regional poison control center shall be posted in a visible place at each telephone.

G. Each camp location shall have an emergency preparedness plan and warning system.

H. The center shall prepare a document containing local emergency contact information, potential shelters, hospitals, evacuation routes, etc., that pertain to each site frequently visited or of routes frequently driven by center staff for center business (such as field trips, pick-up/drop off of children to or from schools, etc.). This document must be kept in vehicles that centers use to transport children to and from the center.

I. Parents shall be informed of the center's emergency preparedness plan.

J. Based on local authorities and documented normal ambulance operation, if an ambulance service is not readily accessible within 10 to 15 minutes, other transportation shall be available for use in case of emergency.

22 VAC 40-185-550. Procedures for emergencies.

K. The center or other appropriate official shall notify the parent immediately if a child is lost, requires emergency medical treatment or sustains a serious injury.

L. The center shall notify the parent by the end of the day of any known minor injuries.

M. The center shall maintain a written record of children's serious and minor injuries in which entries are made the day of occurrence. The record shall include the following:

1. Date and time of injury;

2. Name of injured child;

3. Type and circumstance of the injury;

4. Staff present and treatment;

5. Date and time when parents were notified;

6. Any future action to prevent recurrence of the injury;

7. Staff and parent signatures or two staff signatures; and

8. Documentation on how parent was notified.

Part VIII
SPECIAL SERVICES

22 VAC 40-185-560. Nutrition and food services.

A. Centers shall schedule appropriate times for snacks or meals, or both, based on the hours of operation and time of the day (e.g., a center open only for after school care shall schedule an afternoon snack; a center open from 7 a.m. to 1 p.m. shall schedule a morning snack and midday meal).

B. The center shall ensure that children arriving from a half-day, morning program who have not yet eaten lunch receive a lunch.

C. The center shall schedule snacks or meals so there is a period of at least 1-1/2 hours but no more than three hours between each meal or snack unless there is a scheduled rest or sleep period for children between the meals and snacks.

D. Drinking water or other beverage not containing caffeine shall be offered at regular intervals to nonverbal children.

E. In environments of 80°F or above, attention shall be given to the fluid needs of children at regular intervals. Children in such environments shall be encouraged to drink fluids as outlined in subsection D of this section.

F. When centers choose to provide meals or snacks, the following shall apply:

1. Centers shall follow the most recent, age-appropriate nutritional requirements of a recognized authority such as the Child and Adult Care Food Program of the United States Department of Agriculture (USDA).

2. Children shall be allowed second helpings of food listed in the USDA's child and adult care meal patterns.

3. Centers offering both meals and snacks shall serve a variety of nutritious foods and shall serve at least three sources of vitamin A and at least three sources of vitamin C on various days each week.

4. Children three years of age or younger may not be offered foods that are considered to be potential choking hazards.

22 VAC 40-185-560. Nutrition and food services.

5. A menu listing foods to be served for meals and snacks during the current one-week period shall:

   a. Be dated;

   b. Be posted in a location conspicuous to parents or given to parents;

   c. List any substituted food; and

   d. Be kept on file for one week at the center.

6. Powdered milk shall not be used except for cooking.

G. When food is brought from home, the following shall apply:

1. The food container shall be sealed and clearly dated and labeled in a way that identifies the owner;

2. The center shall have extra food or shall have provisions to obtain food to serve to children so they can have an appropriate snack or meal if they forget to bring food from home, bring an inadequate meal or snack, or bring perishable food; and

3. Unused portions of opened food shall be discarded by the end of the day or returned to the parent.

H. If a catering service is used, it shall be approved by the local health department.

I. Food shall be prepared, stored, and transported in a clean and sanitary manner.

J. Contaminated or spoiled food shall not be served to children.

K. Tables and high chair trays shall be:

1. Sanitized before and after each use for feeding; and

2. Cleaned at least daily.

L. Children shall be encouraged to feed themselves.

M. Staff shall sit with children during meal times.

N. No child shall be allowed to drink or eat while walking around.

22 VAC 40-185-570. Special feeding needs.

A. High chairs, infant carrier seats, or feeding tables shall be used for children under 12 months who are not held while being fed.

   1. Children using infant seats or high chairs shall be supervised during snacks and meals.

   2. When a child is placed in an infant seat or high chair, the protective belt shall be fastened securely.

B. Bottle fed infants who cannot hold their own bottles shall be held when fed. Bottles shall not be propped or used while the child is in his designated sleeping location.

C. The record of each child on formula shall contain:

   1. The brand of formula; and

   2. The child's feeding schedule.

D. Infants shall be fed on demand or in accordance with parental instructions.

E. Prepared infant formula shall be refrigerated, dated and labeled with the child's name.

F. Heated formula and baby food shall be stirred or shaken and tested for temperature before serving to children.

G. Milk, formula or breast milk shall not be heated or warmed directly in a microwave. Note: Water for warming milk, formula, or breast milk may be heated in a microwave.

H. Prepared baby food not consumed during that feeding by an infant may be used by that same infant later in the same day, provided that the food is not served out of the baby jar and is dated and stored in the refrigerator; otherwise, it shall be discarded or returned to the parent at the end of the day. Formula or breast milk shall not remain unrefrigerated for more than two hours and may not be reheated.

I. A one-day's emergency supply of disposable bottles, nipples, and commercial formulas appropriate for the children in care shall be maintained at the center.

J. Breastfeeding shall be permitted.

22 VAC 40-185-570. Special feeding needs.

K. Staff shall feed semisolid food with a spoon unless written instructions from a physician or physician's designee state differently.

L. For therapeutic child day programs and special needs child day programs, the consistency of food shall be appropriate to a child's special feeding needs. Necessary and adaptive feeding equipment and feeding techniques shall be used for children with special feeding needs.

22 VAC 40-185-580. Transportation and field trips.

A. If the center provides transportation, the center shall be responsible from the time the child boards the vehicle until returned to the parents or person designated by the parent.

B. Any vehicle used by the center for the transportation of children shall meet the following requirements:

1. The vehicle shall be manufactured for the purpose of transporting people seated in an enclosed area;

2. The vehicle's seats shall be attached to the floor;

3. The vehicle shall be insured with at least the minimum limits established by Virginia state statutes;

4. The vehicle shall meet the safety standards set by the Department of Motor Vehicles and shall be kept in satisfactory condition to assure the safety of children; and

5. If volunteers supply personal vehicles, the center is responsible for ensuring that the requirements of this subsection are met.

C. The center shall ensure that during transportation of children:

1. Virginia state statutes about safety belts and child restraints are followed and stated maximum number of passengers in a given vehicle shall not be exceeded;

2. The children remain seated and each child's arms, legs, and head remain inside the vehicle;

3. Doors are closed properly and locked unless locks were not installed by the manufacturer of the vehicle;

22 VAC 40-185-580. Transportation and field trips.

4. At least one staff member or the driver always remains in the vehicle when children are present;

5. The following information is in transportation vehicles:

   a. Emergency numbers as specified in 22VAC40-185-550 F and H;

   b. The center's name, address, and phone number; and

   c. A list of the names of the children being transported.

D. When entering and leaving vehicles, children shall enter and leave the vehicle from the curb side of the vehicle or in a protected parking area or driveway.

E. Children shall cross streets at corners or crosswalks or other designated safe crossing point if no corner or crosswalk is available.

F. The staff-to-children ratios of 22VAC40-185-350 E, G, and H shall be followed on all field trips. The staff-to-children ratios need not be followed during transportation of school age children to and from the center. One staff member or adult is necessary in addition to the driver when 16 or more preschool or younger children are being transported in the vehicle.

G. The center shall make provisions for providing children on field trips with adequate food and water.

H. If perishable food is taken on field trips, the food shall be stored in insulated containers with ice packs to keep the food cold.

I. Before leaving on a field trip, a schedule of the trip's events and locations shall be posted and visible at the center site.

J. There shall be a communication plan between center staff and staff who are transporting children or on a field trip.

K. Staff shall verify that all children have been removed from the vehicle at the conclusion of any trip.

L. Parental permission for transportation and field trips shall be secured before the scheduled activity.

22 VAC 40-185-580. Transportation and field trips.

M. If a blanket permission is used instead of a separate written permission, the following shall apply:

1. Parents shall be notified of the field trip; and

2. Parents shall be given the opportunity to withdraw their children from the field trip.

22 VAC 40-185-590. Transportation for nonambulatory children.

A. For therapeutic child day programs and special needs child day programs providing transportation, nonambulatory children shall be transported in a vehicle which is equipped with a ramp or hydraulic lift to allow entry and exit.

B. Wheelchairs shall be equipped with restraining devices and shall be securely fastened to the floor when used to seat children in a vehicle.

C. Arrangements of wheelchairs in a vehicle shall not impede access to exits.

D. For therapeutic child day programs and special needs child day programs, when the center is responsible for providing transportation, the center shall develop a plan based on the needs of the children in care to assure their safe supervision during on-loading, off-loading and transporting.

E. When 16 or more children are being transported, there shall be at least one center aide or adult besides the driver, for each group of 16.

F. For therapeutic child day programs and special needs child day programs, if a child has a known seizure disorder or neurological, genetic or physiological disability causing increased medical risk and that child is being transported, one center aide or adult who is not the driver and who is trained in CPR shall be present in the vehicle.

22 VAC 40-185-600. Animals and pets.

A. Animals that are kept on the premises of the center shall be vaccinated, if applicable, against diseases which present a hazard to the health or safety of children.

B. Animals which are, or are suspected of being, ill or infested with external lice, fleas and ticks or internal worms shall be removed from contact with children.

22 VAC 40-185-600. Animals and pets.

C. If a child is bitten by an animal, an attempt shall be made to confine the animal for observation or laboratory analysis for evidence of rabies.

D. The site of the bite shall be washed with soap and water immediately, and the child's physician or local health department shall be contacted as soon as possible for medical advice.

E. The center shall report the animal bite incident to the local health department.

F. Manure shall be removed from barns, stables and corrals at least once a day and stored and disposed of in a manner to prevent the breeding of flies.

22 VAC 40-185-610. Evening and overnight care.

A. For evening care, beds with mattresses or cots with at least one inch of dense padding shall be used by children who sleep longer than two hours and are not required to sleep in cribs.

   Exception: Camps providing evening care on an occasional basis are not required to meet the requirements of this subsection if sleeping bags or cots are used.

B. For overnight care, beds with mattresses or cots with at least two inches of dense padding shall be used by children who are not required to sleep in cribs.

   Exception: Camps providing overnight care on an occasional basis are not required to meet the requirements of this subsection if sleeping bags or cots are used.

C. For overnight care which occurs for a child on a weekly or more frequent basis, beds with mattresses shall be used.

D. In addition to 22VAC40-185-450 about linens, bedding appropriate to the temperature and other conditions of the rest area shall be provided.

E. For evening and overnight care, separate sleeping areas shall be provided for children of the opposite sex eight years of age or older.

F. If sleeping bags are used, 22VAC40-185-440 A through E about rest furnishings shall also apply to the use of sleeping bags.

G. Camps may use bunk beds if children are at least eight years of age.

22 VAC 40-185-610. Evening and overnight care.

H. In centers providing overnight care, an operational tub or shower with heated and cold water shall be provided.

Exception: Primitive camps are not required to have a tub or shower.

I. When bath towels are used, they shall be assigned for individual use.

J. Activities for children in evening or overnight care shall include, as time allows, age-appropriate activities as described in 22VAC40-185-360 through 22VAC40-185-390.

K. Quiet activities shall be available immediately before bedtime.

L. For children receiving evening or overnight care, the provider shall offer an evening snack.

COMMONWEALTH OF VIRGINIA SCHOOL ENTRANCE HEALTH FORM

Health Information Form/Comprehensive Physical Examination Report/Certification of Immunization

Part I – HEALTH INFORMATION FORM

State law (Ref. Code of Virginia § 22.1-270) requires that your child is immunized and receives a comprehensive physical examination before entering public kindergarten or elementary school. **The parent or guardian completes this page (Part I) of the form.** The Medical Provider completes Part II and Part III of the form. This form must be completed no longer than one year before your child's entry into school.

Name of School: _____ Current Grade: _____

Student's Name: _____
Last First Middle

Student's Date of Birth: _____/_____/_____ Sex: _____ State or Country of Birth: _____ Main Language Spoken: _____

Student's Address: _____ City: _____ State: _____ Zip: _____

Name of Mother or Legal Guardian: _____ Phone: _____-_____-_____ Work or Cell: _____-_____-_____

Name of Father or Legal Guardian: _____ Phone: _____-_____-_____ Work or Cell: _____-_____-_____

Emergency Contact: _____ Phone: _____-_____-_____ Work or Cell: _____-_____-_____

Condition	Yes	Comments	Condition	Yes	Comments
Allergies (food, insects, drugs, latex)			Diabetes		
Allergies (seasonal)			Head or spinal injury		
Asthma or breathing problems			Hearing problems or deafness		
Attention-Deficit/Hyperactivity Disorder			Heart problems		
Behavioral problems			Hospitalizations		
Developmental problems			Lead poisoning		
Bladder problem			Muscle problems		
Bleeding problem			Seizures		
Bowel problem			Sickle Cell Disease (not trait)		
Cerebral Palsy			Speech problems		
Cystic fibrosis			Surgery		
Dental problems			Vision problems		

Describe any other important health-related information about your child (for example, feeding tube, oxygen support, hearing aid, etc.):

_____

_____

List all prescription, over-the-counter, and herbal medications your child takes regularly:

_____

Check here if you want to discuss confidential information with the school nurse or other school authority. ☐ Yes ☐ No

Please provide the following information:

	Name	Phone	Date of Last Appointment
Pediatrician/primary care provider			
Specialist			
Dentist			
Case Worker (if applicable)			

Child's Health Insurance: ____ None ____ FAMIS Plus (Medicaid) _____ FAMIS _____ Private/Commercial/Employer sponsored

I, _____ (do___) (do not___) authorize my child's health care provider and designated provider of health care in the school setting to discuss my child's health concerns and/or exchange information pertaining to this form. *This authorization will be in place until or unless you withdraw it.* ***You may withdraw your authorization at any time by contacting your child's school****. When information is released from your child's record, documentation of the disclosure is maintained in your child's health or scholastic record.*

Signature of Parent or Legal Guardian: _____Date: _____/_____/ _____

Signature of person completing this form: _____Date:_____/_____/_____

Signature of Interpreter: _____Date: _____/_____/_____

COMMONWEALTH OF VIRGINIA
SCHOOL ENTRANCE HEALTH FORM

Part II - Certification of Immunization

Section I

To be completed by a physician, registered nurse, or health department official.
See Section II for conditional enrollment and exemptions.

(A copy of the immunization record signed or stamped by a physician or designee indicating the dates of administration including month, day, and year of the required vaccines shall be acceptable in lieu of recording these dates on this form as long as the record is attached to this form.)
Only vaccines marked with an asterisk are currently required for school entry. Form must be signed and dated by the Medical Provider or Health Department Official in the appropriate box.

Student's Name:_____ Date of Birth: |____|____|____|
Last *First* *Middle* *Mo. Day Yr.*

IMMUNIZATION	RECORD COMPLETE DATES (month, day, year) OF VACCINE DOSES GIVEN				
*Diphtheria, Tetanus, Pertussis (DTP, DTaP)	**1**	**2**	**3**	**4**	**5**
*Diphtheria, Tetanus (DT) or Td (given after 7 years of age)	**1**	**2**	**3**	**4**	**5**
*Tdap booster (6th grade entry)	**1**				
*Poliomyelitis (IPV, OPV)	**1**	**2**	**3**	**4**	
*Haemophilus influenzae Type b (Hib conjugate) *only for children <60 months of age	**1**	**2**	**3**	**4**	
*Pneumococcal (PCV conjugate) *only for children <2 years of age	**1**	**2**	**3**	**4**	
Measles, Mumps, Rubella (MMR vaccine)	**1**	**2**			
*Measles (Rubeola)	**1**	**2**	Serological Confirmation of Measles Immunity:		
*Rubella	**1**		Serological Confirmation of Rubella Immunity:		
*Mumps	**1**	**2**			
*Hepatitis B Vaccine (HBV) ❑ Merck adult formulation used	**1**	**2**	**3**		
*Varicella Vaccine	**1**	**2**	Date of Varicella Disease OR Serological Confirmation of Varicella Immunity:		
Hepatitis A Vaccine	**1**	**2**			
Meningococcal Vaccine	**1**				
Human Papillomavirus Vaccine	**1**	**2**	**3**		
Other	**1**	**2**	**3**	**4**	**5**
Other	**1**	**2**	**3**	**4**	**5**

I certify that this child is **ADEQUATELY OR AGE APPROPRIATELY IMMUNIZED** in accordance with the MINIMUM requirements for attending school, child care or preschool prescribed by the State Board of Health's *Regulations for the Immunization of School Children* (Minimum requirements are listed in Section III).

Signature of Medical Provider or Health Department Official:_____ **Date (*Mo., Day, Yr.*):**___/___/____

Section II
Conditional Enrollment and Exemptions

MEDICAL EXEMPTION: As specified in the *Code of Virginia* § 22.1-271.2, C (ii), I certify that administration of the vaccine(s) designated below would be detrimental to this student's health. The vaccine(s) is (are) specifically contraindicated because (please specify):

_____
_____
_____.

DTP/DTaP/Tdap:[___]; DT/Td:[___]; OPV/IPV:[___]; Hib:[___]; Pneum:[___]; Measles:[___]; Rubella:[___]; Mumps:[____]; HBV:[___]; Varicella:[___]

This contraindication is permanent: [___], or temporary [___] and expected to preclude immunizations until: Date (*Mo., Day, Yr.*): |___|___|___|.

Signature of Medical Provider or Health Department Official:_____ **Date (*Mo., Day, Yr.*):|___|___|___|**

RELIGIOUS EXEMPTION: The *Code of Virginia* allows a child an exemption from receiving immunizations required for school attendance if the student or the student's parent/guardian submits an affidavit to the school's admitting official stating that the administration of immunizing agents conflicts with the student's religious tenets or practices. Any student entering school must submit this affidavit on a CERTIFICATE OF RELIGIOUS EXEMPTION (Form CRE-1), which may be obtained at any local health department, school division superintendent's office or local department of social services. Ref. *Code of Virginia* § 22.1-271.2, C (i).

CONDITIONAL ENROLLMENT: As specified in the *Code of Virginia* § 22.1-271.2, B, I certify that this child has received at least one dose of each of the vaccines required by the State Board of Health for attending school and that this child has a plan for the completion of his/her requirements within the next 90 calendar days. Next immunization due on _____.

Signature of Medical Provider or Health Department Official:_____ **Date (*Mo., Day, Yr.*):|___|___|___|**

Section III
Requirements

***Minimum Immunization Requirements for Entry into School and Day Care (requirements are subject to change)**

- ❑ 3 DTP or DTaP – at least one dose of DTaP or DTP after 4th birthday unless received 6 doses before 4th birthday
- ❑ Tdap – booster required for entry into 6th grade if at least 5 years since last tetanus-containing vaccine
- ❑ 3 Polio – at least one dose after 4th birthday unless received 4 doses of all OPV or all IPV prior to 4th birthday
- ❑ Hib – 2-3 doses in infancy; 1 booster between 12-15 months; 1 dose between 15-60 months if unvaccinated, for children up to 60 months of age only
- ❑ Pneumococcal – 2-4 doses, depending on age at 1st dose for children up to 2 years of age only
- ❑ 2 Measles – 1st dose on/after 12 months of age; 2nd dose prior to entering kindergarten
- ❑ 1 Mumps – on/after 12 months of age
- ❑ 1 Rubella - on/after 12 months of age
  Note: Measles, Mumps, Rubella requirements also met with 2 MMR – 1st dose on/after 12 months of age; 2nd dose prior to entering kindergarten
- ❑ Hep B – 3 doses required (2 doses if Merck adult formulation given between 11 – 15 years of age; check the indicated box in Section I if this formulation was used)
- ❑ 1 Varicella – to susceptible children born on/after January 1, 1997; dose on/after 12 months of age

*** Additional Immunizations Required at Entry into 6th Grade**

- ❑ Tdap – booster required for entry into 6th grade if at least 5 years since last tetanus-containing vaccine

For current requirements consult the Division of Immunization web site at
http://www.vdh.virginia.gov/epidemiology/immunization

Certification of Immunization 04/07

Part III -- COMPREHENSIVE PHYSICAL EXAMINATION REPORT

A qualified licensed physician, nurse practitioner, or physician assistant must complete Part III. The exam must be done no longer than one year before entry into kindergarten or elementary school (Ref. Code of Virginia § 22.1-270). Instructions for completing this form can be found at www.vahealth.org/schoolhealth

Student's Name: _____ Date of Birth: _____/_____/_____ Sex: ☐ M ☐ F

Health Assessment

Date of Assessment: _____/_____/_____
Weight: _____lbs. Height: _____ ft. _____ in.
Body Mass Index (BMI): _____ BP_____
Age / gender appropriate history completed
Anticipatory guidance provided
TB Risk Assessment: ☐ No Risk ☐ Positive/Referred
Mantoux results: _____mm

Physical Examination

1 = Within normal 2 = Abnormal finding 3 = Referred for evaluation or treatment

	1	2	3		1	2	3		1	2	3
HEENT	☐	☐	☐	Neuro l ogic	☐	☐	☐	Ski n	☐	☐	☐
Lungs	☐	☐	☐	Abdomen	☐	☐	☐	Genital	☐	☐	☐
Heart	☐	☐	☐	Extremities	☐	☐	☐	Urinary	☐	☐	☐

EPSDT Screens Required for Head Start – include specific results and date:
Blood Lead:_____ Hct/Hgb _____

Developmental Screen

Assessed for:	*Assessment Method:*	*Within normal*	*Concern identified:*	*Referred for Evaluation*
Emotional/Social				
Problem Solving				
Language/Communication				
Fine Motor Skills				
Gross Motor Skills				

Hearing Screen

❑ Screened at 20dB: Indicate Pass (P) or Refer (R) in each box.

	1000	2000	4000
R			
L			

❑ Screened by OAE (Otoacoustic Emissions): ☐ Pass ☐ Refer

☐ Referred to Audiologist/ENT ☐ **Unable to test – needs rescreen**
☐ Permanent Hearing Loss Previously identified: ___Left ___Right
☐ Hearing aid or other assistive device

Vision Screen

❑ With Corrective Lenses (check if yes)

Stereopsis	❑ Pass	❑ Fail		❑ Not tested
Distance	Both	R	L	Test used:
	20/	20/	20/	

❑ Pass ❑ Referred to eye doctor ❑ **Unable to test – needs rescreen**

Dental Screen

❑ Problem Identified: Referred for treatment
❑ No Problem: Referred for prevention
❑ No Referral: Already receiving dental care

Recommendations to (Pre) School, Child Care, or Early Intervention Personnel

Summary of Findings (check one):
☐ **Well child; no conditions identified of concern to school program activities**
☐ **Conditions identified that are important to schooling or physical activity** (complete sections below and/or explain here): _____
_____
_____
_____
_____

___ **Allergy** ☐ food: _____ ☐ insect: _____ ☐ medicine: _____ ☐ other: _____
Type of allergic reaction: ☐ anaphylaxis ☐ local reaction Response required: ☐ none ☐ epi pen ☐ other: _____

___**Individualized Health Care Plan needed** (e.g., asthma, diabetes, seizure disorder, severe allergy, etc)

___ **Restricted Activity** Specify: _____

___ **Developmental Evaluation** ☐ Has IEP ☐ Further evaluation needed for: _____

___ **Medication**. Child takes medicine for specific health condition(s). ☐ Medication must be given and/or available at school.

___ **Special Diet** Specify: _____

___ **Special Needs** Specify: _____

Other Comments: _____

Health Care Professional's Certification (Write legibly or stamp)**:**

Name : _____ **Signature:** _____ Date: ____/_____/_____

Practice/Clinic Name: _____ **Address**: _____

Phone: _____-_____-_____ **Fax:** _____-_____-_____ **Email:** _____

Attachment II

CODE OF VIRGINIA
TITLE 63.2 – CHAPTER 18
FACILITIES AND PROGRAMS
October 1, 2002

§ 63.2-1811. Asbestos inspection required for child day centers. The \Commissioner shall not issue a license to any child day center which is located in a building built prior to 1978 until he receives a written statement that the building has been inspected for asbestos, as defined by § 2.2-1162, and in accordance with the regulations for initial asbestos inspections pursuant to the Asbestos Hazard Emergency Response Act, 40 CFR Pt. 763 - Asbestos Containing Materials in Schools. The inspection shall be conducted by personnel competent to identify the presence of asbestos and licensed in Virginia as an asbestos inspector and as an asbestos management planner pursuant to Chapter 5 (§ 54.1-500 et seq.) of Title 54.1. The written statement shall state that either (i) no asbestos was detected or (ii) asbestos was detected and response actions to abate any risk to human health have been completed or (iii) asbestos was detected and response actions to abate any risk to human health have been recommended in accordance with a specified schedule and plan pursuant to applicable state and federal statutes and regulations. The statement shall include identification of any significant hazard areas, the date of the inspection and be signed by the person who inspected for the asbestos. If asbestos was detected, an operations and maintenance plan shall be developed in accordance with the regulations of the Asbestos Hazard Emergency Response Act and the statement shall be signed by the person who prepared the operations and maintenance plan. Any inspection, preparation of an operations and maintenance plan or response action shall be performed by competent personnel who have been licensed in accordance with the provisions of Chapter 5 of Title 54.1.

When asbestos has been detected, the applicant for licensure shall also submit to the Commissioner a written statement that response actions to abate any risk to human health have been or will be initiated in accordance with a specified schedule and plan as recommended by an asbestos management planner licensed in Virginia. This statement shall be signed by the applicant for licensure.

The written statements required by this section shall be submitted for approval to the Commissioner's representative prior to issuance of a license. The provisions of this section shall not apply to child day centers located in buildings required to be inspected pursuant to Article 5 (§ 2.2-1162 et seq.) of Chapter 11 of Title 2.2. (1987, c. 654,
§ 63.1-198.01; 1988, c. 723; 1993, cc. 660, 730, 742; 2002, c. 747.)

This section of the *Code of Virginia* can be viewed at
http://leg1.state.va.us/000/lst/LS910684.HTM.

ASBESTOS INFORMATION

Section 63.2-1811 of Chapter 18, *Code of Virginia* requires asbestos inspections in any building built before 1978 in which a licensed child day center will be located. The asbestos inspections and management plans must follow the requirements of the Federal Asbestos Hazard Emergency Response Act (AHERA). The asbestos inspectors must be licensed in Virginia as an asbestos inspector **AND** as a management planner. Centers must ask for a copy of the inspector/management planner's current licenses.

Before a license to operate a center will be issued, the center must submit to the appropriate licensing office a written statement from the asbestos inspector and management planner that the inspection was done according to the AHERA regulation and a management plan completed, **IF** asbestos is found or assumed to be present in the building. The center must keep a copy of the complete inspection report, management plan (if applicable) and written statement at the center. Information regarding what the asbestos inspector must include in the written statement is included in this attachment. A suggested form for the written statement is available from the appropriate licensing office. The asbestos inspector/management planner's written statement must be submitted to the appropriate licensing office.

If asbestos is found or assumed to be present in the building, the law also requires the applicant for center licensure to submit a written statement that the applicant will follow the recommendations of the management plan. A suggested form is available from the appropriate licensing office. The applicant is responsible for carefully reviewing the report and management plan and taking the appropriate actions to minimize the health hazards to occupants of the building.

Licensed child day centers are not required to have the three-year re-inspections required by the AHERA rule. However, if the management plan recommends a re-inspection every three years, the center must comply with that recommendation.

Child day centers located in currently operating public school buildings or state owned buildings are exempt from the requirements of the Department of Social Services' law. These buildings are subject to other State and Federal laws governing asbestos inspections.

Any public or private, not for profit, school in Virginia with children, who have reached their fifth birthday on or before September 30 of the current school year, will be considered as operating a school as defined under State law. These programs are subject to the AHERA regulation and must receive an asbestos inspection and management plan for the building occupied by the school. For profit schools are not subject to the AHERA law. This means that licensed or exempt child day centers and certified preschools (not for profit) providing care to children who turn five on or before September 30th of the current school year must have an asbestos inspection and management plan following the AHERA guidelines. These reports must be submitted to the Department of Education. If the building was first occupied after October 12, 1988, it may not need to be inspected if the building owner or center administrator has a letter from the architect of the building stating that no asbestos was specified or used in the building. That letter becomes part of the management plan and is also submitted to the Department of Education. The age of the child determines subjectivity to AHERA, not the type of program the center offers. Children who turn five during the school year will not trigger subjectivity to AHERA. In addition, after school

child care programs that serve children five years of age or older are not considered schools, and are not subject to AHERA.
Public or private, not for profit, child day centers that have already had an asbestos inspection completed according to the Department of Social Services' asbestos law should determine if they are also subject to the AHERA regulation for public and private schools. If you have questions regarding your subjectivity to this law, please contact the Department of Education at:

Facilities Services
Department of Education
James Monroe Building
101 North 14th Street
Richmond, Virginia 23219
804-225-2035

REQUIREMENTS FOR WRITTEN STATEMENT FROM ASBESTOS INSPECTOR

The written statement prepared by the licensed asbestos inspector and management planner and submitted to the appropriate licensing office must include:

1. Verification that the building in which the child day center is located was inspected for asbestos according to the requirements of the Asbestos Hazard Emergency Response Act - 40 CFR Part 763 - Asbestos Containing Materials in Schools; and either;

    a. no asbestos was detected; or

    b. asbestos was detected and response actions to abate any risk to human health have been completed; or

    c. asbestos was detected and response actions to abate any risk to human health have been recommended in accordance with a specified schedule and plan pursuant to applicable state and federal statutes and regulations.

2. The date of the inspection.

3. Signature of the licensed asbestos inspector and management planner, including copies of the Virginia licenses.

4. If asbestos is found, or suspect material is found that is assumed to contain asbestos, the statement shall include:

    a. The location of any significant hazard areas;

    b. Verification of completion of the management plan;

    c. Response actions recommended by the inspector; and

    d. Verification that response actions have been completed, if applicable.

The complete asbestos inspection report and management plan, including the operations and maintenance plan, must be prepared and submitted to the applicant for licensure by the asbestos inspector/management planner.

CHILD CARE FOOD PROGRAM MEAL PATTERN Breakfast Select All Three Components			
Food Components	***Ages 1-2***	***Ages 3-5***	***Ages 6-12***[1]
1 milk fluid milk	1/2 cup	3/4 cup	1 cup
1 fruit/vegetable juice,[2] fruit and/or vegetable	1/4 cup	1/2 cup	1/2 cup
1 grains/bread[3] bread or	1/2 slice	1/2 slice	1 slice
cornbread or biscuit or roll or muffin or	1/2 serving	1/2 serving	1 serving
cold dry cereal or	1/4 cup	1/3 cup	3/4 cup
hot cooked cereal or	1/4 cup	1/4 cup	1/2 cup
pasta or noodles or grains	1/4 cup	1/4 cup	1/2 cup

Lunch or Supper			
Food Components	***Ages 1-2***	***Ages 3-5***	***Ages 6-12***[1]
1 milk fluid milk	1/2 cup	3/4 cup	1 cup
2 fruits/vegetables juice,[2] fruit and/or vegetable	1/4 cup	1/2 cup	3/4 cup
1 grains/bread[3] bread or	1/2 slice	1/2 slice	1 slice
cornbread or biscuit or roll or muffin or	1/2 serving	1/2 serving	1 serving
cold dry cereal or	1/4 cup	1/3 cup	3/4 cup
hot cooked cereal or	1/4 cup	1/4 cup	1/2 cup
pasta or noodles or grains	1/4 cup	1/4 cup	1/2 cup
1 meat/meat alternate meat or poultry or fish[4] or	1 ounce	1 ½ ounces	2 ounces
alternate protein product or	1 ounce	1 ½ ounces	2 ounces
cheese or	1 ounce	1 ½ ounces	2 ounces
egg[5] or	1/2 egg	3/4 egg	1 egg
cooked dry beans or peas or	1/4 cup	3/8 cup	1/2 cup
peanut or other nut or seed butters or	2 Tbsp.	3 Tbsp.	4 Tbsp.
nuts and/or seeds[6] or	1/2 ounce	3/4 ounces	1 ounces
yogurt[7]	4 ounces	6 ounces	8 ounces

CHILD CARE FOOD PROGRAM MEAL PATTERN
Snack
Select Two of the Four Components

Food Components	*Ages 1-2*	*Ages 3-5*	*Ages 6-12*[1]
1 milk			
fluid milk	1/2 cup	1/2 cup	1 cup
1 fruit/vegetable			
juice,[2] fruit and/or vegetable	1/2 cup	1/2 cup	3/4 cup
1 grains/bread[3]			
bread or	1/2 slice	1/2 slice	1 slice
cornbread or biscuit or roll or muffin or	1/2 serving	1/2 serving	1 serving
cold dry cereal or	1/4 cup	1/3 cup	3/4 cup
hot cooked cereal or	1/4 cup	1/4 cup	1/2 cup
pasta or noodles or grains	1/4 cup	1/4 cup	1/2 cup
1 meat/meat alternate			
meat or poultry or fish[4] or	1/2 ounce	1/2 ounce	1 ounce
alternate protein product or	1/2 ounce	1/2 ounce	1 ounce
cheese or	1/2 ounce	1/2 ounce	1 ounce
egg[5] or	1/2 egg	1/2 egg	1/2 egg
cooked dry beans or peas or	1/8 cup	1/8 cup	1/4 cup
peanut or other nut or seed butters or	1 Tbsp.	1 Tbsp.	2 Tbsp.
nuts and/or seeds[6] or	1/2 ounce	1/2 ounce	1 ounce
yogurt[7]	2 ounces	2 ounces	4 ounces

[1] Children age 12 and older may be served larger portions based on their greater food needs. They may not be served less than the minimum quantities listed in this column.
[2] Fruit or vegetable juice must be full-strength. Juice cannot be served when milk is the only other snack component.
[3] Breads and grains must be made from whole-grain or enriched meal or flour. Cereal must be whole-grain or enriched or fortified.
[4] A serving consists of the edible portion of cooked lean meat or poultry or fish.
[5] One-half egg meets the required minimum amount (one ounce or less) of meat alternate.
[6] Nuts and seeds may meet only one-half of the total meat/meat alternate serving and must be combined with another meat/meat alternate to fulfill the lunch or supper requirement
[7] Yogurt may be plain or flavored, unsweetened or sweetened.

For additional information on the Child and Adult Care Food Program of the U.S. Department of Agriculture go to http://www.fns.usda.gov/cnd/Care/CACFP/cacfphome.htm.

CHILD RESTRAINT DEVICES AND SAFETY BELTS FOR TRANSPORTING CHILDREN
(§§ 46.2-1095 – 46.2-1100 of the *Code of Virginia*)
July 1, 2007

§ 46.2-1095. Child restraint devices required when transporting certain children; safety belts for other children less than sixteen years old required; penalty.

A. Any person who drives on the highways of Virginia any motor vehicle manufactured after January 1, 1968, shall ensure that any child, up to age eight, whom he transports therein is provided with and properly secured in a child restraint device of a type which meets the standards adopted by the United States Department of Transportation. Further, rear-facing child restraint devices shall be placed in the back seat of a vehicle. In the event the vehicle does not have a back seat, the child restraint device may be placed in the front passenger seat only if the vehicle is either not equipped with a passenger side airbag or the passenger side airbag has been deactivated.

B. Any person transporting any child less than sixteen years old, except for those required pursuant to subsection A to be secured in a child restraint device, shall ensure that such child is provided with and properly secured by an appropriate safety belt system when driving on the highways of Virginia in any motor vehicle manufactured after January 1, 1968, equipped or required by the provisions of this title to be equipped with a safety belt system, consisting of lap belts, shoulder harnesses, combinations thereof or similar devices.

C. A violation of this section shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in any action for the recovery of damages in a civil action.

D. A violation of this section may be charged on the uniform traffic summons form.

E. Nothing in this section shall apply to taxicabs, school buses, executive sedans, or limousines.

§ **46.2-1096. Exceptions for certain children.**

Whenever any physician licensed to practice medicine in the Commonwealth or any other state determines, through accepted medical procedures, that use of a child restraint system by a particular child would be impractical by reason of the child's weight, physical unfitness, or other medical reason, the child shall be exempt from the provisions of this article. Any person transporting a child so exempted shall carry on his or her person or in the vehicle a signed written statement of the physician identifying the child so exempted and stating the grounds therefor. (1982, c. 634, § 46.1-314.3; 1983, c. 296; 1989, c. 727.)

§ 46.2-1097. Child restraint devices; special fund created.

The Department of Health shall operate a program to promote, purchase, and distribute child restraint devices to applicants who need a child restraint device but are unable to acquire one because of financial inability. A special fund, known as the Child Restraint Device Special Fund, shall fund the program. The Department of Health shall determine the number of child restraint devices that can be purchased by the program, based upon the amount of funds in the Child Restraint Device Special Fund, provided, however, that the requirements of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to child restraint device purchases by the Department of Health pursuant to this

section. The Child Restraint Device Special Fund shall consist of all civil penalties that are collected pursuant to § 46.2-1098 and other funds that may be appropriated for that purpose. (1982, c. 634, § 46.1-314.4; 1984, c. 778; 1986, c. 283; 1989, c. 727; 1996, c. 145.)

§ 46.2-1098. Penalties; violations not negligence per se.

Any person, including those subject to jurisdiction of a juvenile and domestic relations district court, found guilty of violating this article shall be subject to a civil penalty of fifty dollars, which shall not be suspended in whole or in part, for a violation of § 46.2-1095, or, if applicable, a civil penalty of twenty dollars for failure to carry a statement as required by §46.2-1096. Notwithstanding the foregoing provisions of § 46.2-1095, the court may waive or suspend the imposition of the penalty for a violation of § 46.2-1095 if it finds that the failure of the defendant to comply with the section was due to his financial inability to acquire a child restraint system. All civil penalties collected pursuant to this section shall be paid into the Child Restraint Device Special Fund as provided for in § 46.2-1097.

No assignment of demerit points shall be made under Article 19 (§ 46.2-489 et seq.) of Chapter 3 of this title and no court costs shall be assessed for violation of § 46.2-1095.

Violations of this article shall not constitute negligence per se; nor shall violation of this article constitute a defense to any claim for personal injuries to a child or recovery of medical expenses for injuries sustained in any motor vehicle accident. (1982, c. 634, § 46.1-314.5; 1989, c. 727; 1992, cc. 119, 405; 2002, c. 358.)

§ 46.2-1099. Further exemptions.

This article shall not apply to:

The transporting of any child in a vehicle having an interior design which makes the use of such device impractical; or

The transporting of children by public transportation, bus, school bus, or farm vehicle.

For the purposes of this section, "farm vehicle" means a vehicle which is either (i) exempt from registration pursuant to §§ 46.2-664, 46.2-665, 46.2-666, 46.2-667, 46.2-670, or § 46.2-672, (ii) registered as a farm vehicle pursuant to § 46.2-698, or (iii) owned by a resident of another state under whose laws the vehicle is either registered as a farm vehicle or exempt from registration by virtue of its use as a farm vehicle. (1982, c. 634, § 46.1-314.6; 1989, c. 727; 1992, cc. 119, 405; 1993, c. 181.)

§ 46.2-1100. Use of standard seat belts permitted for certain children.

The use of a seat belt of the type which is standard equipment shall not violate this article if (i) the affected child is at least four years old but less than eight years old and (ii) any physician licensed to practice medicine in the Commonwealth or any other state determines that use of a child restraint system by a particular child would be impractical by reason of the child's weight, physical fitness, or other medical reason, provided that any person transporting a child so exempted shall carry on his person or in the vehicle a signed written statement of the physician identifying the child so exempted and stating the grounds for the determination. (1982, c. 634, § 46.1-314.7; 1989, c. 727; 2002, cc. 616, 660; 2007)

These sections of the *Code of Virginia* can be viewed at http://leg1.state.va.us/000/src.htm by entering the applicable Code citation number.

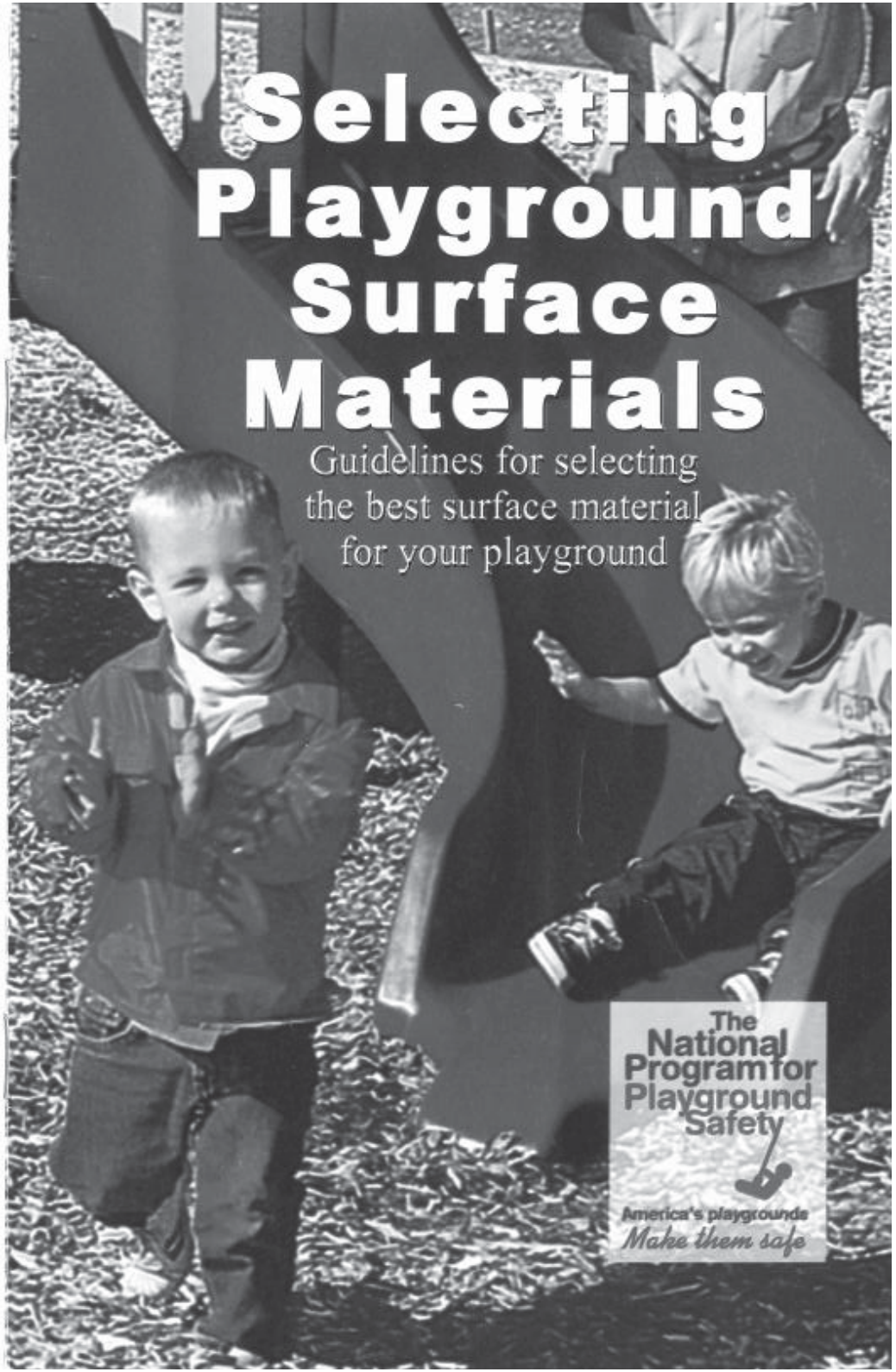
Air Quality Color Code Chart
http://www.deq.state.va.us/

Color code	*AQI*	*Caution statement*
GREEN GOOD	0 to 50	Good air quality - ozone in the healthy range.
YELLOW MODERATE	51 to 100	Moderate air quality - ozone at moderate levels. Unusually sensitive people should consider limiting prolonged outdoor exertion.
ORANGE UNHEALTHY FOR SENSITIVE GROUPS	101 to 150	Air quality unhealthy for sensitive groups - active children and adults, and people with respiratory disease such as asthma, should limit prolonged outdoor exertion.
RED UNHEALTHY	151 to 200	Unhealthy air quality - active children and adults, and people with respiratory disease such as asthma, should avoid prolonged outdoor exertion; everyone else, especially children, should limit prolonged outdoor exertion.
PURPLE VERY UNHEALTHY	201 to 300	Very unhealthy air quality - active children and adults, and people with respiratory disease such as asthma, should avoid all outdoor exertion; everyone else, especially children, should limit outdoor exertion.

Attachment VII

Selecting Playground Surface Materials

Guidelines for selecting the best surface material for your playground



The National Program for Playground Safety

America's playgrounds Make them safe

Nonprofit Organization
U.S. Postage PAID
Permit No. 62
Cedar Falls, IA 50614

The National Program for Playground Safety

America's playgrounds Make them safe

Guidelines for Selecting the Best Surface Material for Your Playground

Developed by
National Program for Playground Safety
University of Northern Iowa
Cedar Falls, Iowa 50614-0618

800-554-PLAY
playground safety.org

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• Playground Surface Selection Guide.....Pg. 9
• Playground Surfacing Questionnaire.....Pgs 10/11

If you would like more information regarding the sources and research used in this guide please contact the National Program for Playground Safety.

Why is Surfacing so Important?

Selecting, installing and maintaining appropriate playground surfaces may be one of the most critical factors in reducing playground injuries. Studies indicate that 70% of all playground injuries and approximately 9 out of 10 serious injuries are related to falls to the surface. Thus, an important aspect of reducing playground injuries is to provide cushioned surfaces under and around equipment.

Unfortunately, there are no perfect playground surfaces. For instance, synthetic or poured-in-place rubber surfaces do poorly in Alaska due to climatic conditions. Likewise, the selection of pea gravel may not be appropriate for a child care center, since young children tend to put things in their mouths. Thus, every agency must set up criteria to decide what type of appropriate surface they should use. However, whether in Alaska or California, in a child care center, a school or a park, there are a few common factors that influence the purchase of any playground surface. These qualities include:

- **Fall Protection**
- **Accessibility**
- **Maintenance**
- **Cost**

How Much Fall Protection is needed?

For the prevention of life-threatening injuries, the first question that needs to be answered is "Will this surface provide adequate fall protection?" The National Program for Playground Safety has developed a safe surface decision-making model to help individuals determine whether or not a playground surface will meet the criteria of adequate fall protection (See Figure 1). As can be seen in the model outlined in Figure 1, there are four decisions that are involved in the selection of surfaces that will provide adequate fall protection. These include the selection of **suitable materials**, the **height** of the equipment, the **depth** of the surface materials and adequate coverage in the **use zone**.

Suitable Materials: According to the Consumer Product Safety Commission (CPSC, 1997) there are a number of materials that tend to reduce the risk of life threatening injuries. Acceptable materials include sand, gravel, wood chips, engineered wood fiber, shredded rubber and synthetic surfaces. Hard materials such as asphalt and concrete are unacceptable surfaces under playground equipment. Similarly, earth surfaces such as

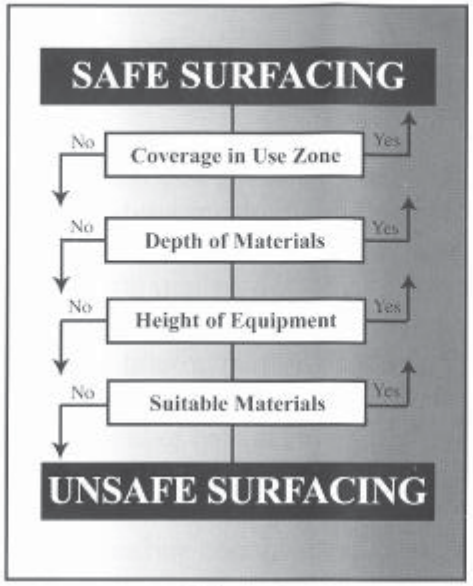

Figure 1

SAFE SURFACING DECISION MAKING MODEL

dirt, soil, grass, and turf are unacceptable because their shock absorbing properties vary depending on wear and climatic conditions (CPSC, p.4).

Height: Equipment height affects the choice of shock absorbent surfacing in two ways. First, some surfaces such as pea gravel provide shock absorbency protection for limited heights (i.e. six feet in the case of pea gravel). Second, currently no surface over twelve feet has been laboratory tested. Thus, to date, no one can guarantee the shock absorbency characteristics for equipment over the height of twelve feet. Because research studies indicate that equipment over six feet in height has double the injury rate of equipment under six feet, the NPPS recommends that the height of playground equipment should not exceed eight feet for school age children and six feet for preschool children.

Depth: If the surface does not meet minimum standards for shock absorbency, then it should not be used. Minimum standards are determined through testing procedures as stated in the American Society for Testing and Materials (ASTM) F1292 Standard for Playground Surfacing. However, because of time and cost constraints, many consumers can't afford to perform this testing. Consequently, as a public service, the NPPS conducted testing of five common loose-fill materials:

- **Pea Gravel**
- **Sand**
- **Wood chips**
- **Shredded Rubber**
- **Engineered Wood Fiber[1]**

The results are provided in Figure 2 on the next page. The chart reports the heights at which a life-threatening head injury would not be expected to occur for compressed loose fill materials and synthetic materials (poured-in-place and rubber mats/tiles) at three different depths (6", 9" and 12"). As can be seen in Figure 2, twelve inches of compressed sand, wood chips, shredded rubber and engineered wood fiber can provide shock absorbency for equipment up to eight feet in height. In contrast, the maximum height for twelve inches of pea gravel is six feet.

Figure 2

COMPRESSED LOOSE FILL SYNTHETIC MATERIALS DEPTH CHART

	Pea Gravel			Sand			Wood Chips			Shredded Rubber			Engineered Wood Fiber			Poured in Place			Rubber Mats/Tiles		
Height of Equipment	6"	9"	12"	6"	9"	12"	6"	9"	12"	6"	9"	12"	6"	9"	12"	1"	2"	3"	1"	2"	3"
1'	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y
2'	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y
3'	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	N	Y	Y
4'	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	N	Y	Y
5'	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	N	Y	Y
6'	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y	N	N	Y
7'	N	N	N	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	N	N	Y	N	N	Y
8'	N	N	N	Y	Y	Y	N	Y	Y	Y	Y	Y	N	Y	Y	N	N	N	N	N	Y

*Based on depth test results conducted by NPPS or manufacturers' literature. Note that the loose-fill results are based on materials tested in a compressed state.
Y=Yes, it did meet CPSC recommendations for this critical height. N=NO, it did not meet CPSC recommendations for this critical height.

[1]**Description of Loose-Fill surfacing Materials included in Chart 1** Prior to the selection of materials to be tested, an attempt was made to provide a uniform selection criteria for common loose-fill surface materials. Therefore, one readily available sample was selected in each of the following categories: Sand, Gravel, Wood Chips, Engineered Wood Fiber, and Shredded Rubber. The exact selection criteria for each of these materials are described below. **Sand** - ASTM C-897 Plaster Sand •**Shredded Rubber** - rubber particles produced from recycled materials •**Engineered Wood fiber** - random-sized engineered wood fibers from recognized hardwoods •**Wood Chips** - random sized wood chips, twigs, and leaves collected from a wood chipper being fed tree limbs, branches, and brush •**Gravel** - rounded gravel particles not greater then 3/8" maximum or nominal size which are washed, free of dust, clay, dirt, or foreign objects.

Use Zone: The final element that helps decide if the appropriate surface is present is the determination of the placement of the surfacing under and around playground equipment. The *CPSC Handbook for Public Playground Safety* defines these areas as use zones.

Figure 3 presents the requirements for use zones as outlined in the CPSC handbook.

The basic use zone is six feet. However, because children move off swings and slides in different ways than other equipment, the use zone is expanded to provide a longer safety zone. For instance, if a swing beam is 8 feet high, then the use zone extends sixteen feet in front and sixteen feet in back of the swing beam to accommodate children who might jump out of the swing seat while in motion.

Figure 3

USE ZONES FOR EQUIPMENT

EQUIPMENT	USE ZONE REQUIREMENT
• Stationary Equipment	Six feet on all sides of the equipment
• Slides	Six feet on all sides. Four feet plus the height of slide in front of the slide chute
• Swings	Six feet on each side. Twice the height of the swing beam in front and back of the swing

How Will Accessibility be Provided?

The second characteristic that needs to be considered in the selection of surfacing material is that of accessibility. According to the Americans with Disabilities Act (ADA) of 1990, discrimination on the basis of disability in public accommodations is prohibited. Thus, all newly built or substantially altered public play areas must meet accessibility guidelines. While the entire playground area doesn't have to be accessible, there must be an accessible pathway to accessible playground equipment. Therefore, a pathway made of an accessible surface material must be provided. At this time, the testing of loose fill materials for accessibility is still in process. However, it is well accepted that sand and pea gravel are not accessible surfaces.

What are the Maintenance Requirements?

A third characteristic, which is often ignored during the selection process, is the maintenance requirements that various surfaces need to properly retain the shock absorbency characteristics. Maintenance costs and needs of the various surface materials vary greatly, with loose-fill materials tending to have much higher main-

tenance needs. In high-use areas, loose materials may need to be raked daily to replace materials that have been pushed or kicked away. These materials may also have to be tilled periodically to loosen compaction and additional materials may need to be added on an annual basis. Conversely, unitary materials require relatively low maintenance; needing only occasional repair, cleaning, and sweeping.

How Much Will it Cost?

Last, but not least, every agency has to consider the cost of placing appropriate surfacing material under and around playground equipment. Unfortunately, cost is usually the determining factor in the selection of playground surfacing materials but, as pointed out in this brochure, it should never be the sole factor in the selection of appropriate surfacing. More precisely, it is the initial cost of purchasing and installing the material that is often the deciding factor for the choice of surface.

While initial costs are important, other considerations should also be studied. First, the initial cost of the surface should be prorated over the life expectancy of the playground. For instance, a synthetic surface can be as much as ten times the cost of a loose fill surface. However, synthetic surfaces will generally last for at least ten years, whereas most loose fill materials will need some replacement on a yearly basis. Thus, annual maintenance and replacement expenses also need to be factored into the overall costs.

Additionally, the installation costs including method of containment, trucking costs, and removing the existing surface must be considered. For example, installation costs can be as high as 30% of the overall cost of the surfacing. All of these factors contribute to the overall cost of the material to be selected. The point is, that although loose fill surfacing initially looks like a bargain in comparison to many synthetic surfaces; in actuality, the real cost may be very similar when all the other costs are factored into the equation.

The selection of surfacing should be approached in a very methodical and deliberate manner. By developing criteria that includes considerations regarding fall protection, accessibility, maintenance requirements and costs, agencies and organizations can help provide safe playground environments for all children.

Figure 4

PLAYGROUND SURFACE SELECTION GUIDE

Kind of Material	Wheelchair Accessible	Maintenance Needed	Flammable*	Initial Cost	Estimated Ten Year Cost**	Professional Installation Required	Manf. Warranty Product Liability
Engineered Wood Fiber	Yes	Medium	Conditional	$$	$$$	Conditional	Yes
Pea Gravel	No	High	No	$$	$$	No	No
Poured-in-Place	Yes	Low	Conditional	$$$	$$$	Yes	Yes
Rubber Mats or Tile	Yes	Low	Conditional	$$$	$$$	Yes	Yes
Sand	No	High	No	$	$$	No	No
Shredded Rubber	Conditional***	Medium	Conditional	$$	$$$	No	Conditional
Wood Chips	No	High	Conditional	$	$$$	No	No

*Some materials are treated to be nonflammable.**Cost includes purchase price, installation and maintenance prorated over ten years.***Wheelchair accessibility varies by manufacturer. Be sure to consult the ASTM F1951 standard and get test results from the manufacturer.

Playground Surfacing Questionnaire

Answering these fundamental questions should provide insight into the basic requirements for the surface material or materials to be selected.

- **Shock Absorbency**

  What is the critical height of your equipment?

  What depths of the various materials meet these requirements?

- **Accessibility**

  Which structures or pieces of equipment are going to be accessible?

  What materials can be used to provide access?

- **Cost**

  How much material is needed?

How much would the various materials cost?

- **Maintenance requirements**

  How much time and money are available for maintaining the surfacing?

  Which surfaces would meet these low, medium, or high maintenance cost needs?

- **Climate conditions**

  What are some of the prominent climatic conditions in your area that might affect the performance of the surfacing?

  Which materials would perform best under these conditions?

The next step is to select materials that exhibit these characteristics. Please refer to Figure 4 on page 9 for a summary of the many strengths and weaknesses of common playground surface materials.