TITLE 78
LEGISLATIVE RULES
DEPARTMENT OF
HUMAN SERVICES

SERIES 1
CHILD CARE CENTERS LICENSING

§78-1-1. General.

1.1. Scope. -- This rule establishes standards and procedures for the licensure of child care centers under the provisions of West Virginia Code §49-2B-1, et seq., and related federal and state code. This rule should be read in conjunction with the provisions of West Virginia Code §49-2B-1, et seq. The West Virginia Code is available in public libraries and on the Legislature's web page, http://www.legis.state.wv.us/.

1.2. Authority. – West Virginia Code §49-2B-4.

1.3. Filing Date. – May 1, 2014

1.4. Effective Date. – July 1, 2014

1.5. Purpose. – This rule governs the regulation of child care centers in West Virginia.

§78-1-2. Application and Enforcement.

2.1 Application. This rule applies to any facility maintained by the state or any county or municipality of the state, or any agency or facility operated by an individual, firm, corporation, association or organization, public or private, for the care of thirteen (13) or more children for child care services in any setting, if the facility is open for more than thirty (30) days per year per child.

2.2 Enforcement. This rule is enforced by the Secretary of the Department of Health and Human Resources.

§78-1-3. Definitions.

3.1. Adequate Supervision. –- The observation, oversight, and guidance of the individual child or groups of children, by the staff member taking responsibility for the ongoing activity of each child or group of children so that the staff member is close enough to intervene, if necessary, to protect the child from harm. Adequate supervision requires the staff member's physical presence, knowledge of the child's program of activities, individual needs, habits, interests and special problems, if any, and the acceptance of accountability for the child's or groups of children's care.

3.2. Approved Training. –- Training or professional development that has been approved by the Secretary.

3.3. Approved Training Source. –- A training provider that has been approved by the Secretary.

3.4. Authorization and Release for Protective Services Record Check. –- A document provided by the Department, signed by a center's prospective staff member or employee, granting permission to conduct a search of Department records related to his or her involvement in child or adult abuse and neglect allegations or other investigations documented by the Secretary.

3.5. Certificate of Approval. –- A written certificate issued by the Secretary stating that a child care center operated by the state meets requirements in accordance with the terms and conditions of the certificate and this rule.

3.6. CDA (Child Development Associate) Credential. –- The national early childhood credential administered by the Council for Early Childhood Professional Recognition.

3.7. Child. –- For the purpose of this rule, an individual who is less than 13 years of age.

3.8. Child Abuse and Neglect. –- Physical injury, mental or emotional injury, sexual abuse, sexual exploitation, the sale or the attempted sale or negligent treatment or maltreatment of a child by a parent, guardian or custodian responsible for the child's welfare, under circumstances which harm or threaten the health and welfare of the child.

3.9. Child Care Center. –- A facility maintained by the state or any county or municipality thereof, or any agency or facility operated by an individual, firm, corporation, association or organization, public or private, for the care of thirteen (13) or more children for child care services in any setting, if the facility is open for more than 30 days per year per child, except:

3.9.a. A kindergarten through grade twelve education program, that is operated by a public school or that is exempt from the compulsory school attendance law by the state department of education;

3.9.b. A West Virginia Pre-K classroom operated by a county Board of Education in a public school setting;

3.9.c. Any other kindergarten, preschool or school program that operates with sessions not exceeding four (4) hours per day for any child;

3.9.d. An individual or facility that offers occasional care of children for brief periods while parents are shopping, engaging in recreational activities, attending religious services or engaging in other business or personal affairs;

3.9.e. Hospitals or other medical facilities that are primarily used for temporary care of children for treatment, convalescence, or testing; and

3.9.f. Persons providing care solely for children related to them.

3.10. Continuous Supervision. –- The availability and responsibility of a staff member to assist with child care at all times.

3.11. Core Knowledge and Core Competencies of Early Childhood Educators. –- The sets of observable skills and knowledge that represent common standards of satisfactory practice in the early childhood field in the state of West Virginia.

3.12. Criminal Identification Bureau Record (CIB). –- The State Police documentation, as a result of a fingerprinting process, that identifies a person who has been arrested or convicted of criminal behavior.

3.13. Day Camp. –- A school-age program that is operated when school is not in session, for no more than twelve (12) hours per day and is not primarily outdoor based.

3.14. Designated Activity Area. –- Room divisions within the center that define limits and reduce distractions. These divisions shall include a temporary wall or physical barrier that is at least three (3) feet in height.

3.15. Direct Supervision. –- When a qualified staff member is physically present in the same room, area, or vehicle with the child or group of children, visually monitoring the interactions of the children.

3.16. Disinfect. –- Eliminate virtually all germs from an inanimate surface through the use of chemicals or heat.

3.17. Driver. –- A staff member who transports center children more than three (3) times per week or a staff member whose job function is to transport children served by the child care center.

3.18. Early Care and Education Field. –- An area of study that relates to child development, early childhood from birth to eight (8) years of age, child and family studies, early childhood special education or other early childhood fields.

3.19. Evening Care. –- Care provided after seven o'clock in the evening to a child who does not stay overnight.

3.20. Field Trip. –- An excursion or special outing away from the site where program activities regularly occur.

3.21. Full-time Director. –- A director who is present at the center for a minimum of one-half (½) of the hours the center is in operation during a seven day period, or thirty-five (35) hours during the same seven day period, whichever is less.

3.22. GED. –- A certificate verifying passage of a test of General Educational Development recognized as equivalent to a high school diploma.

3.23. Governing Body. –- The individual owner of the center or the group of persons that have the administrative control and legal authority to set policy and oversee operations of a child care center.

3.24. Group. –- A specific number of children, distinct from the larger population of children, who regularly meet together and interact with each other and with one (1) or more specific staff members, in an assigned space. The size of the group and required number of staff are determined by the staff:child ratio set out in this rule.

3.25. Immediate Area. –- Within reach, easily accessible and in the same room.

3.26. Infant. –- A child between the age of six (6) weeks and the age of ambulation and walking, usually through twelve (12) months.

3.27. Level I Field Trip. –- An excursion or outing to a destination that is thirty (30) minutes or less from the center or from the site where program activities regularly occur.

3.28. Level I Water Activity. –- Any activity occurring in or near water eighteen (18) inches deep or less.

3.29. Level II Field Trip. –- An excursion or outing to a destination that is more than thirty (30) minutes from the center or from the site where program activities regularly occur.

3.30. Level II Water Activity. –- Any activity occurring in or near water with a depth of more than eighteen (18) inches.

3.31. License. –- A written certificate issued by the Secretary authorizing a person, corporation, partnership, voluntary association, municipality, county, or any agency thereof, to operate a child care center in accordance with the terms and conditions of the license and this rule.

3.32. Licensed Capacity. –- The maximum number of children permitted in a center.

3.33. Licensed Health Care Provider. –- For the purpose of this rule, an individual who holds a license to practice in West Virginia as a physician, Doctor of Medicine or (MD), Doctor of Osteopathy (DO)or, physician's assistant (PA), chiropractor or nurse practitioner.

3.34. Licensee. –- The holder of a license or certificate of approval obtained from the Secretary to operate a child care center in West Virginia.

3.35. Medical Plan of Care. –- A document that provides specific health care information, including any medications, procedures, precautions or adaptations to diet or environment that may be needed to care for a child with chronic medical conditions or special health care needs. Medical plans of care also describe signs and symptoms of impending illness and outline the response needed to those signs and symptoms.

3.36. Medication Error. –- An error caused by either:

3.36.a. Failure to administer a dose of medication; or

3.36.b. The administration of a medication:

3.36.b.1. To the incorrect child;

3.36.b.2. In the incorrect dosage;

3.36.b.3. At the incorrect time, other than within thirty (30) minutes before or after the scheduled time;

3.36.b.4. In the incorrect form;

3.36.b.5. By the incorrect method or route; or

3.36.b.6. That is incorrect itself.

3.37. Moderate to Vigorous Physical Activity. –- Levels of activity that are conducted at varying intensities. Moderate physical activity is faster than a slow walk, but still allows children to talk easily. It increases the heart rate and breathing rate. Vigorous physical activity is rhythmic, repetitive physical movement that uses large muscle groups, causing children to breathe rapidly and only enabling them to speak in short phrases. Typically children's heart rates are substantially increased and they are likely to be sweating. Toddlers and preschoolers generally accumulate vigorous physical activity over the course of the day in very short bursts, usually fifteen (15) to thirty (30) seconds.

3.38. Multifunction school activity bus. – Any vehicle operated by the center that can carry eleven or more passengers meeting the federal motor safety standards applicable to school buses with some exclusions regarding traffic control devices.

3.39. Night Time Care. –- Care provided to the child who stays during nighttime hours or overnight, which may include the time usually designated as sleep time.

3.40. Out-of-school Time Program. –- A program that offers activities to children before and after school, on school holidays, when school is closed because of an emergency, and on school calendar days set aside for teacher activities.

3.41. Parent. –- The biological or adoptive parent or parents of a child, a person or persons, or the Department, who has legal custody of a child, or the lawful guardian of a child.

3.42. Person-in-Charge. –- The qualified staff member with responsibility for the daily operation of the center at any specific time.

3.43. Plan of Correction. –- A written agreement between the Department and a center, approved prior to implementation, that outlines the steps the center shall take to correct deficiencies identified by the Secretary through an inspection or the investigation of a complaint.

3.44. Practicum Contact Hour. –- A period of supervised experience recognized for credit toward a credential by an educational institution or similar organization.

3.45. Professional Development. –- A continuum of learning and support opportunities designed to prepare individuals for work with and on behalf of young children and their families, as well as opportunities that provide ongoing experiences to enhance this work. Professional development programs encompass both education and training programs.

3.46. Qualified Staff. –- A staff member who has a high school diploma or GED and meets the requirements under this rule for the position of director, assistant director, lead teacher, teacher, assistant teacher, or teaching assistant.

3.47. Registered Apprenticeship Certificate for Child Development Specialist. –- A nationally recognized credential awarded by the United States Department of Labor for the successful completion of a combination of classroom and on-the-job training.

3.48. Related Field. –- As approved by the Secretary, an area of study that includes credit hours associated with the early child care and education field, including elementary education, social work, recreation and leisure studies, nursing, counseling, psychology, and administration related to the care and education of the child from birth through twelve (12) years of age.

3.49. Relevant Work Experience. –- Work that is directly with or on behalf of children from birth through twelve (12) years of age, and their families in areas of supervision, leadership or management; program coordination, development or regulation; training, instruction or technical assistance; or evaluation or research. Private or family child care is considered relevant work experience only if the care was regulated care and can be verified.

3.50. Responsible Person. –- A parent, center staff member, or other person designated by the parent in written information~~,~~ to drop off or pick up the child.

3.51. Sanitize. –- Destroy pathogens on food contact surfaces, such as utensils, cups and glasses, through the use of processes involving chemicals or heat that do not pose a threat to food safety.

3.52. Secretary. — The Secretary of the Department of Health and Human Resources or his or her designee.

3.53. School -Age Child. — A person who is between five (5) and thirteen (13) years of age and is eligible to attend school or is enrolled in grades K-12.

3.54. School-Age Program. — Services provided by a center for the care and supervision for school-age children. These programs include summer recreation camps, day camps and out-of-school time programs.

3.55. Screen Media. — Forms of communication or entertainment viewed on a screen such as televisions, computer monitors, digital gaming equipment, etc.

3.56. Serious Occurrence. — An event that either harms or could potentially harm a child or compromises the operation of the center. It may include:

3.56.a. A child who dies while in care;

3.56.b. A child who is injured while in care to the extent that the child requires medical care beyond immediate first aid;

3.56.c. A diagnosed reportable communicable disease that is introduced in the center;

3.56.d. A medication error that occurs;

3.56.e. A legal action involving or affecting the operation of the center;

3.56.f. A serious violation of a licensing requirement, such as use of physical punishment or failure to supervise; or

3.56.g. A report given to Child Protective Services of suspected abuse or neglect of a child at the center.

3.57. Special Activities. — Potentially dangerous organized recreation that require special technical skills, safety equipment, safety regulations, or involve fire or heat-producing equipment. These include, but are not limited to, Level II water activities, archery, gymnastics, karate, horseback riding, bicycling, rock climbing, spelunking, hiking and cookouts.

3.58. Staff Member. — Any center personnel, including substitutes and student interns, whether or not he or she receives compensation.

3.59. Staff:Child Ratio. — A relationship which describes the number of children that one (1) qualified staff member or substitute is permitted to supervise. The number varies according to the ages and developmental levels of the children and the types of activities in which they are participating.

3.60. Statement of Criminal Record. — A Department provided document signed by a person of his or her arrests or convictions and the authorization for the Department to do a search for a criminal record and release the findings to the center.

3.61. Substitute. — An individual who is present at the center to maintain the staff:child ratio when a qualified staff member is absent.

3.62. Summer Recreation Camp. — A school age program that operates during the summer months, whose program orientation is primarily recreational, and of which eighty percent (80%) of the program occurs outdoors.

3.63. Support Staff. -- Staff who carry out duties not regularly involving the supervision of children.

3.64. Teen Aide. -- An individual who is between thirteen (13) and eighteen (18) years of age who works with or without compensation under the direct supervision of a qualified staff member who has a minimum of the qualifications of an assistant director or lead teacher.

3.65. Time-0ut. -- A positive behavioral support strategy to help children change their undesired behavior and help teach a desired replacement behavior. The time-out period is the length of time when the child is removed from regular activities as a consequence for specific behavior.

3.66. Toddler -- A child between ambulation/walking to twenty-four (24) months of age.

3.67. Training. -- Instruction provided that is designed to impart knowledge or skills.

3.68. Type I Center. -- A child care center with a capacity of thirty (30) or fewer children.

3.69. Type II Center. -- A child care center with a capacity of thirty-one (31) to sixty (60) children.

3.70. Type III Center. -- A child care center with a capacity of sixty-one (61) or more children.

3.71. Universal Precautions. -- Procedures to be followed for infection control in all situations to prevent the transmission of blood borne germs that may be spread through blood or body fluids that might contain blood.

3.72. Use Zone. -- The surface under and around a piece of equipment onto which the child falling from or exiting from that the equipment is expected to land.

3.73. Variance. -- A written declaration by the Secretary that a certain requirement of this rule may be satisfied in a manner different from that set forth in the rule.

3.74. Volunteer. -- An individual who provides a direct service to the center for two (2) or more hours a week on a scheduled basis, without compensation, and is eighteen (18) years of age or older; provided, that a parent of an enrolled child working directly with his or her own child is not considered a volunteer under this rule.

3.75. Waiver. -- A written declaration by the Secretary that a certain requirement of this rule may be treated as inapplicable in a particular circumstance.

3.76. West Virginia Training Certificate in Early Care and Education (WVTCECE). -- A certificate for completing one hundred twenty (120) hours of training in the core competencies of early childhood education awarded through the WV STARS Professional Development System.

3.77. WV STARS. -- West Virginia State Training and Registry System.

§78-1-4. Licensing Information and Provisions.

4.1 Requirements for a License or Certificate of Approval.

4.1.a. Before establishing or operating a child care center:

4.1.a.1. A center operator and each member of the governing body shall verify in writing that he or she has read this rule and is responsible for compliance with its requirements;

4.1.a.2. A child care center, other than one operated by the state, shall obtain a license from the Secretary; and

4.1.a.3. A child care center operated by the state shall obtain a certificate of approval from the Secretary.

4.1.b. A license or certificate of approval is valid for up to two (2) years from the date of issuance, as determined by the Secretary, unless revoked or modified to provisional status.

4.1.c. A license or certificate of approval is valid only for the center and its location named in the application and is not transferable.

4.1.d. A licensee shall post the license or certificate of approval in a conspicuous place in the center.

4.1.e. If the ownership of a center changes, the new owner shall apply for a license and shall not operate until an initial license is issued.

4.1.f. Before the location of a center changes, the licensee shall:

4.1.f.1. Inform the Secretary of the planned change at least sixty (60) days prior to the relocation; and

4.1.f.2. Apply for a new license or certificate of approval and shall not operate at the new location until an initial license or certificate of approval is issued.

4.2. Application for a License or Certificate of Approval.

4.2.a. For each center to be licensed or approved, an applicant shall submit a completed application as prescribed by the Secretary. An application may be obtained by requesting one from the Division of Early Care and Education within the Department; contact information is located at www.wvdhhr.org.

4.2.b. An incomplete application shall be considered withdrawn if not completed within ninety (90) days of submission.

4.2.c. A licensee shall submit an application for renewal of a license or certificate of approval to the Secretary not less than sixty (60) days prior to the expiration of the current license.

4.3. Waivers and Variances.

4.3.a. A center shall comply with the provisions of West Virginia Code §49-2B-1 et seq., the requirements of this rule, terms of its license or certificate of approval and any plan of correction, unless a written waiver or variance has been granted by the Secretary. A center may not obtain a waiver of the requirements of this rule on the basis of the inability to achieve compliance with the rule.

4.3.b. A request for a variance or waiver shall be submitted to the Secretary in writing. The request shall include:

4.3.b.1. The specific requirement of this rule requested to be waived or varied; and

4.3.b.2. The reason or reasons for seeking a waiver or variance.

4.3.c. A waiver or variance of a specific provision of this rule may be granted by the Secretary only if the following criteria are met:

4.3.c.1. The center has documented and demonstrated that the provision of the rule is inapplicable in a particular circumstance, or that the center complies with the intent of the provision in the rule in a manner not permitted by the rule;

4.3.c.2. The health, safety, and well-being of a child is not endangered; and

4.3.c.3. The waiver or variance agreement contains provisions for a regular review of the waiver or variance.

4.3.d. The waiver or variance agreement is subject to immediate cancellation if a center fails to comply with the stated terms of this rule.

4.4. Amendment of a License or Certificate of Approval.

4.4.a. A current licensee shall apply for an amendment of a license or certificate of approval when:

4.4.a.1. Implementing an additional program or changing a program described in the statement of purpose; or

4.4.a.2. Seeking to change the licensed capacity of the center.

4.4.b. In addition to a completed application requesting an amendment, a licensee shall submit to the Secretary in writing any of the following that apply to the change:

4.4.b.1. A copy of the center's revised statement of purpose as described in Subsection 6.2 of this rule;

4.4.b.2. The qualifications of the director and staff members;

4.4.b.3. A copy of the center's revised plan for meeting program requirements and staff:child ratios;

4.4.b.4. A floor plan reflecting changes to the structure being used by a child care center;

4.4.b.5. A positive inspection report from the State Fire Marshal following any changes to the center's operation and premises;

4.4.b.6. A positive inspection from the county Department of Health, including the Department of Health Child Care Center Inspection Report and the Department of Health Inspection Report for Food Service Establishments;

4.4.b.7. Written menus developed by a dietician or nutritionist, or proof of participation in the Child and Adult Care Food Program administered by the Office of Child Nutrition in the Department of Education; and

4.4.b.8. A Pest Management Report as required by the West Virginia Department of Agriculture.

4.5. The Secretary may issue the following types of licenses or approvals:

4.5.a. An initial six month license or certificate of approval for applicants establishing a new service;

4.5.b. A regular or renewal license for a period of up to two (2) years for a licensee in compliance with this rule;

4.5.c. A provisional license for a licensee not in full compliance with this rule, but does not pose a significant risk to children.

4.6. Conditions of a License or Certificate of Approval. As a condition of issuing a license or a certificate of approval the Secretary may:

4.6.a. Limit the age, problems, type of behaviors, physical or mental conditions of children allowed admission to a particular center;

4.6.b. Prohibit intake of any children; or

4.6.c. Reduce the number of children that the center is licensed to receive.

4.7. Denial or Revocation of a License or Certificate of Approval.

4.7.a. The Secretary may deny, refuse to renew, or revoke a license or certificate of approval if the center materially violates any provisions of West Virginia Code, violates any terms or conditions of the license or certificate of approval, or fails to maintain established requirements of child care.

4.7.b. When the Secretary denies, refuses to renew, or revokes a license or certificate of approval, the licensee shall not operate the center without a court order pending administrative or judicial review.

4.8. Closing of Center by the Secretary.

4.8.a. If the Secretary finds that the operation of a child care center constitutes an immediate danger of serious harm to the children served by the center, the Secretary shall issue an order of closure terminating the operation of the center.

4.8.b. A center ordered closed by the Secretary may not operate pending administrative or judicial review without a court order.

4.9. Administrative and Judicial Review.

4.9.a. Administrative and judicial review are subject to the provisions of §29A-5-1 et seq. of the West Virginia Code.

4.9.b. A decision issued by the Secretary may be made effective from the date of issuance. Immediate relief may be obtained upon a showing of good cause made by a verified petition to the circuit court of Kanawha County or the circuit court of any county where the affected center is located.

4.9.c. The pendency of administrative or judicial review shall not prevent the Secretary from obtaining injunctive relief pursuant to the West Virginia Code §49-2b-5.

§78-1-5. Inspection and Investigation.

5.1. An applicant or licensee shall permit the Secretary access to the center to conduct announced and unannounced inspections of all aspects of the center's operation and premises.

5.2. A licensee shall provide all information requested by the Secretary.

5.3. When an inspection or complaint investigation finds non-compliance with this rule, the Secretary may require a plan of correction.

5.4. The Secretary may request the licensee to submit the results of a health examination, psychological examination or drug and alcohol screening result on the licensee or any personnel of the center if good cause is found during an inspection or investigation.

§78-1-6. Governance.

6.1. Administrative Structure.

6.1.a. General. The Licensee is legally accountable for the operation of the center and shall:

6.1.a.1. Ensure the center's compliance with the provisions of West Virginia Code §49-2B-1 et. seq. and the requirements of this rule.

6.1.a.2. Implement a statement of purpose as described in this rule; and

6.1.a.3. Develop policies and procedures to be kept in an administrative manual as described in this section to guide the operation of the center.

6.1.b. A center shall have a governing body to ensure that the responsibilities of the licensee are carried out.

6.1.b.1. The governing body shall have at least one (1) parent of a child currently served by the center, or when no parent is available for the governing body, a parent advisory committee shall be established as described in this section;

6.1.b.2. No staff member, staff family member, or employee of a public agency that regulates or makes eligibility decisions for the center may serve, but the director may be an ex-officio non-voting member;

6.1.b.3. The governing body shall meet at least four (4) times in a twelve month period and preserve in writing the minutes of each meeting, including but not limited to, the meeting's date and time, members in attendance, issues considered, and decisions made.

6.1.b.4. The governing body shall appoint a full-time director to manage the daily operations at each site where a center operates; submit the director's qualifications in writing for approval by the Secretary prior to employment; conduct an annual evaluation of the director; and oversee any necessary action regarding the director's job performance.

6.1.c. An unincorporated, individual licensee (owner) may act as the governing body. In addition to the requirements listed in paragraph 6.1.b.4. of this subsection, the owner shall appoint a parent advisory committee comprised of parents of children currently served by the center that meets at least four (4) times in a twelve month period.

6.2. Statement of Purpose.

6.2.a. An applicant or licensee shall ensure that each center has a written statement of purpose that includes:

6.2.a.1. The type of care and programs offered by the center;

6.2.a.2. The goals and objectives for each of the offered programs;

6.2.a.3. The ages of the children served;

6.2.a.4. The scheduled days and hours of operations;

6.2.a.5. The admission and discharge policies; and

6.2.a.6. The provisions made by the applicant or licensee to ensure safety and reduce risk of harm.

6.2.b. An applicant or licensee shall ensure that the statement of purpose is:

6.2.b.1. Available to staff members and parents at all times; and

6.2.b.2. Reviewed with all staff members whenever changes are made.

6.3. Administrative Manual.

6.3.a. An applicant or licensee shall ensure that each center has an administrative manual that includes the center's policies and procedures with the dates they were implemented or revised, regarding:

6.3.a.1. Confidentiality and information disclosure and secure disposition of records;

6.3.a.2. Admission and discharge;

6.3.a.3. Personnel:

6.3.a.3.A. Employment;

6.3.a.3.B. Termination;

6.3.a.3.C. Use of uncompensated personnel;

6.3.a.3.D. Background checks including criminal convictions and abuse and neglect findings;

6.3.a.3.E. Compensation, including a statement of coverage or exemption from coverage of Workers Compensation and Unemployment Compensation;

6.3.a.3.F. Circumstances under which the center reserves the right to require drug and alcohol screening for drivers, other staff and volunteers; and

6.3.a.3.G. Periodic performance evaluations;

6.3.a.4. Behavior management including, a description of methods used for positive guidance, when the use of time-out or other behavior consequences are to be communicated to the parent and what process the center uses to determine and develop behavior management plans;

6.3.a.5. Reporting of abuse;

6.3.a.6. Health policies for staff and children, addressing at a minimum the health requirements of this rule;

6.3.a.7. Attendance;

6.3.a.8. Emergencies;

6.3.a.9. Transportation; and

6.3.a.10. Grievance procedures.

6.3.b. An applicant or licensee shall ensure that the administrative manual is:

6.3.b.1. Available to staff members at all times; and

6.3.b.2. Reviewed with all staff members when changes are made.

6.4. Standards of Ethical Conduct. A center shall not misrepresent or operate a program in any way that is misleading, deceptive or illegal.

6.5. Grievance Procedure. A center shall develop and implement a written grievance procedure for families and employees. The procedure shall be written in clear and simple language and shall include at least the following provisions:

6.5.a. A center shall ensure that families and employees can express concerns or make complaints without fear of retaliation;

6.5.b. The center shall explain the procedure to parents and employees and obtain written acknowledgment that an explanation of the procedure has been provided.

6.6. Records and Information Disclosure.

6.6.a. Records. A center shall maintain the confidentiality of all records, including:

6.6.a.1. Child records according to the following guidelines:

6.6.a.1.A. A center where the child is currently enrolled shall keep the child's records on the premises and have a procedure for the maintenance, security and disposition of records;

6.6.a.1.B. A center shall store and secure records against loss, tampering, or unauthorized use and establish procedures restricting access to records and unauthorized use under the provisions of West Virginia Code §61-3C-1 et seq.; and

6.6.a.1.C. A center shall retain records for a minimum of three (3) years following the child's discharge.

6.6.a.2. Staff records according to the following guidelines:

6.6.a.2.A. A center shall keep all current staff records on file on the premises and have a procedure for the maintenance, security and disposition of records;

6.6.a.2.B. A center that operates at more than one (1) site shall keep current staff members' emergency medical information on file at each location where a staff member is employed and at a central location; and

6.6.a.2.C. A center that operates at more than one (1) site may keep all staff records at a central location as long as the central location is in West Virginia.

6.6.b. Information Disclosure.

6.6.b.1. A center shall keep all information about the child confidential and shall only disclose it to staff members caring for the child in accordance with the center's policies and procedures.

6.6.b.2. A center shall obtain the written consent of the child's parent before disclosing information about the child except when disclosing information to the Secretary or his or her designee.

§78-1-7. The Child and Family.

7.1. Admission, Discharge, Basic Rights and Records.

7.1.a. A center shall develop, implement and maintain an admission policy and procedure ensuring that prior to the admission of the child to the center:

7.1.a.1. The parent completes and submits an application for child care services;

7.1.a.2. The director or designated staff member documents in the child's file, a meeting with the parent to exchange information about the center's programs and the specific needs of the child, including information about any individual characteristics and personality factors that may influence the child's behavior and well-being at the center, and any special family considerations that are relevant to child care;

7.1.a.3. The center provides to the parent a copy of its statement of purpose and discusses it with the parent;

7.1.a.4. The center provides information about its liability insurance coverage, including information regarding coverage or non-coverage of accidents or injuries; and

7.1.a.5. The center informs the parent of the details of the agreements to be signed by the parent, including, but not limited to, an agreement that:

7.1.a.5.A. The center prohibits corporal punishment on its premises and during off-site center activities while the child is participating;

7.1.a.5.B. The parent has access to the center when his or her child is in attendance; and

7.1.a.5.C. The parent has received and discussed a copy of the center's policies on:

7.1.a.5.C.1. Behavior management and the reporting of child abuse and neglect;

7.1.a.5.C.2. Immunization, parental objections to treatment, the dismissal and re-admittance to the center of the child with a communicable illness, procedures for notifying the child's parent in advance of its policies on the exclusion and re-admittance of ill children, procedures for informing the parent of each child of the exclusion policy, and medication administration;

7.1.a.5.C.3. Confidentiality and information disclosure; and

7.1.a.5.C.4. Meal and nutrition policy;

7.1.a.5.C.5. Emergency evacuation and sheltering procedures; and

7.1.a.5.C.6. Discharge policies.

7.1.b. The center shall ensure the parent has access to a copy of this rule;

7.1.c. The center shall inform the parent of its requirements for signed permission prior to the child's participation in field trips, water activities and other special activities; and

7.1.d. The center shall inform the parent of his or her right to report to the Secretary any complaints related to compliance with the provisions of West Virginia Code §49-2B-1 et seq. and the requirements of this rule.

7.2. Discharge Policies. A center shall develop, implement and maintain policies and procedures, including criteria, for a child's discharge from the center:

7.2.a. When the parent withdraws the child from a center;

7.2.b. When a center asks a parent to remove his or her child; and

7.2.c. When a center informs the parent in advance of the request for discharge, except in cases of emergencies or investigations related to child abuse and neglect.

7.3. Basic Rights. A center shall ensure that the child and the child's family have equal access to programs regardless of race, religion, ethnicity, gender, ability or sexual orientation.

7.4. Information About Child. For each child enrolled at a center, the center shall maintain a file in one central location that includes the following current information:

7.4.a. The child's name, address, gender and date of birth;

7.4.b. The name of the child's parent, and the parent's home and work telephone numbers and addresses;

7.4.c. The name, physical address and telephone number of at least one (1) additional individual who can assume responsibility if the center cannot locate the parent;

7.4.d. The names, addresses and telephone numbers of the child's sources of primary medical care and emergency medical care;

7.4.e. The child's health insurance coverage and policy number;

7.4.f. A signed permission from the parent for emergency medical treatment and transportation;

7.4.g. A signed permission to release the child to someone other than the parent, with the names, addresses and telephone numbers of the one (1) person or several persons permitted to take the child from the center;

7.4.h. Information and special instructions from the child's parent or licensed health care provider about any special dietary or other needs because of a medical or other reason;

7.4.i. A signed permission from the parent to take photographs or make audio and/or video recording of the child;

7.4.j. Legal verification of custody when one (1) parent is the sole legal guardian of the child by virtue of a court proceeding;

7.4.k. Health records as described in Subsections 15.1 and 15.2 of this rule;

7.4.l. The dates of enrollment and discharge;

7.4.m. Scheduled days and hours of attendance; and

7.4.n. The name and telephone number of the school-age child's school.

7.5. Information for emergency purposes. A center shall keep two (2) copies of the information in Subdivision 7.4.a. through 7.4.h. of this rule, with the parent's original signature on both copies, and shall keep:

7.5.a. One (1) copy in the center's files to be easily accessible at all times; and

7.5.b. The other copy in the center's emergency file, described in this rule, where it is available to accompany the child when the child is off-site.

7.6. Exchanging information with the parent. The center shall develop a plan for ongoing communication with the parent that includes:

7.6.a. A pre-admission meeting in which the center discusses with the parent an oral or written system for exchanging information regularly about the child including the child's health and any events at home or at the center that may influence the child's behavior and well being;

7.6.b. Providing a signed incident or accident report when an incident or accident resulted in first aid. The report shall include, at a minimum, the time, date, location, description of the incident or accident, the action taken and the name of the staff person responsible for the child at that time;

7.6.c. Providing a signed serious occurrence report as required in Section 19 of this rule; and

7.6.d. Providing the parent opportunities to volunteer at the center.

§78-1-8. Staffing.

8.1. This section applies to all center personnel including the private owners, volunteers, and parents who receive compensation for their duties or who are used by the center to meet staff:child ratios.

8.2. Persons at a child care center who are not subject to this rule include:

8.2.a. An adult who is in the center for brief periods in the normal course of carrying out business or professional activities and is not left alone with the children; or

8.2.b. A parent of an enrolled child who is at the center only for the purpose of performing parental responsibilities in relation to his or her own child.

8.3. Staffing Procedures.

8.3.a. A center shall provide each new staff member with a notification letter that includes his or her effective date of hire, position title, qualifications, duties and responsibilities at the time of hiring.

8.3.b. A center shall conduct performance evaluations:

8.3.b.1. On all staff at least once a year; and

8.3.b.2. On all newly employed staff members and staff members new to their positions at three (3) months, six (6) months, and twelve (12) months.

8.3.c. A center shall provide each staff member with:

8.3.c.1. A written copy of his or her most recent evaluation, signed by the center's director or director's designee and the evaluated staff member; and

8.3.c.2. A professional development plan based on the evaluation.

8.3.d. A center shall maintain a file for each staff member that includes:

8.3.d.1. A current job description;

8.3.d.2. Documentation that references have been verified including three (3) references for the center director and two (2) references for other staff members;

8.3.d.3. Records of employment, including a duplicate copy of all performance evaluations; and

8.3.d.4. A verification of the staff member's education and qualifications.

8.4. Staff Character and Background.

8.4.a. A center shall use staff members and volunteers with:

8.4.a.1. A good reputation and character;

8.4.a.2. Sufficient education, training and experience to provide the skills necessary for carrying out the essential functions of his or her job with or without reasonable accommodation;

8.4.a.3. Sound judgment, emotional maturity, and an understanding of children;

8.4.a.4. A demonstrated ability to perform assigned tasks;

8.4.a.5. The ability to correct hazards that might harm the health, safety and well-being of the children;

8.4.a.6. The ability to work with children without mistreatment or abuse;

8.4.a.7. The ability to encourage children and to provide them with a variety of learning and social experiences appropriate to the age of the children;

8.4.a.8. The ability to support children's physical, emotional, psychological, social and personal development; and

8.4.a.9. The ability to communicate effectively and to respect confidentiality.

8.4.b. No person shall be on the premises or have contact with the children in care whose health or behavior would harm the children, or who is under the influence of a controlled substance, including alcohol or a legal pharmaceutical that impairs his or her functioning.

8.4.c. Other than the exceptions cited in Subdivision 8.4.e. of this subsection, a center shall ensure that a criminal background investigation is performed on each staff member and volunteer through the West Virginia Department of Military Affairs and Public Safety, Criminal Identification Bureau (CIB) and an authorized agency in a previous state of residence, if applicable, and shall keep the following information on file:

8.4.c.1. A completed and signed Statement of Criminal Records. A copy of the statement shall be on file no later than the date of hire;

8.4.c.2. A CIB records check, except as described in this section;

8.4.c.3. A report of a Federal Bureau of Investigation (FBI) records check, for any staff member who has lived outside West Virginia within the past five (5) years, or has established residence outside West Virginia for more than one (1) year since turning eighteen (18) years of age; and

8.4.c.4. Notation with a date and signature of a check of the West Virginia State Police online sex offender registry prior to the use or employment of a staff member or volunteer.

8.4.d. A center shall ensure that each staff member and volunteer has a completed, signed, and dated Authorization and Release for Protective Services Record Check. A copy of the release shall be on file and the original submitted to the Department no later than the date of hire.

8.4.e. A center does not require a criminal records check on the following:

8.4.e.1. A new staff member who has on file at the center documentation of the required criminal history investigations within the previous twelve (12) months;

8.4.e.2. An individual not associated with the center, but contracted to provide lessons or other services for brief periods to the children while center staff are present; or

8.4.e.3. A parent who transports children on an irregular basis for field trips without pay or compensation.

8.4.f. Prior to receiving the CIB and FBI reports required under this rule on any staff member, a center shall have in place a safety plan that ensures that the staff member works under direct supervision and is not left alone with a child.

8.4.g. The Secretary may require a CIB or FBI check for good cause.

8.4.h. For individuals over thirteen (13) and under eighteen (18) years of age, prior to permitting them direct contact with the children on a regular basis, a center shall have on file a signed affidavit from the individual's parent stating that his or her child has never been arrested or convicted of an offense against a person.

8.4.i. A center shall update the following reports in each staff member's file:

8.4.i.1. The Statement of Criminal Record every two (2) years;

8.4.i.2. The completed CIB and, if required, FBI report at least every five (5) years; and

8.4.i.3. The Authorization and Release for Protective Services Record Check submitted to the Department at least every five (5) years.

8.5. Hiring Prohibitions

8.5.a. A center shall not employ or use an individual who is currently under indictment or charged with any crime, is currently on parole or probation for a felony conviction, or has been convicted or entered a plea of guilty or no contest to any of the following:

8.5.a.1. A felony crime against a person;

8.5.a.2. Child or adult abuse or neglect, or the exploitation of a child or an incapacitated adult;

8.5.a.3. Domestic violence or spousal abuse;

8.5.a.4. Felony arson;

8.5.a.5. A felony or misdemeanor crime against a child or incapacitated adult;

8.5.a.6. Felony conviction for Driving Under the Influence (DUI) or drug-related offenses within the last ten (10) years;

8.5.a.7. Neglect or abuse by a care giver; or

8.5.a.8. Pornography and sexual offense crimes.

8.5.b. A center shall not hire or continue to employ or use any individual who is determined by the Department to have abused or neglected a child or incapacitated adult. The effective date for this requirement is July 1, 2003. The date of the finding of abuse or neglect may occur prior to July 1, 2003.

8.5.c. A center may not employ or use an individual who has entered a plea of guilty or no contest, or has been convicted of a felony, or two (2) or more misdemeanor crimes that are not listed in Subdivision 8.5.a. unless the Secretary grants a waiver.

8.5.d. A center may not use an individual who failed to disclose a conviction or pending charges on a Statement of Criminal Record or failed to disclose a finding of abuse or neglect on an Authorization and Release for Protective Services Record Check unless the Secretary grants a waiver.

8.5.e. A center shall have policies and procedures that include protocols requiring:

8.5.e.1. A staff member or volunteer to report his or her criminal arrest, charge, indictment, or conviction for a criminal offense to the center director within twenty-four (24) hours;

8.5.e.2. A staff member to report to the center director that he or she is subject of an abuse or neglect investigation;

8.5.e.3. The center to notify the Secretary of the staff member's report within twenty-four (24) hours; and

8.5.e.4. That the center prohibit a staff member or volunteer who is accused of having sexually abused or otherwise injured a child or incapacitated adult from caring for or having contact with children pending the outcome of an investigation.

8.5.f. If a center chooses to advocate for a waiver for an employee, then it shall have policies and procedures regarding waivers that do not conflict with Department policies. The policy must include procedures for:

8.5.f.1. Informing the staff member of the waiver process and time limit for requesting a waiver;

8.5.f.2. Providing a statement of support for the waiver request from the center director;

8.5.f.3. Ensuring that the staff member does not have contact with, or is removed from contact with, the children until the Secretary reaches a decision on the waiver unless the licensee, staff member and the Department agree to a written safety plan that permits the staff member to continue in a staff position until the Secretary reaches a decision.

8.5.g. A center shall secure from the employee a recent health assessment performed not more than 90 days prior to the date hired for the employee and signed by a licensed health care provider. The health assessment shall be on file no later than 30 days from the first date of employment. A health assessment for a volunteer shall be on file if the volunteer is scheduled to work at least forty (40) hours per month in the center. The health assessment shall include:

8.5.g.1. A significant health history which the center needs to know in order to protect the health of the employee or the health and safety of children in care;

8.5.g.2. A physical examination, including vision and hearing screening;

8.5.g.3. A statement that the prospective staff member has no known condition or disease which would interfere with the proper care of children; and

8.5.g.4. A tuberculosis risk assessment that is repeated annually or a tuberculosis screening by the Mantoux method, if a screening is indicated by the tuberculosis risk assessment.

8.5.h. For staff currently employed, a center shall keep on file a health assessment that is updated every two (2) years.

8.6. Staff Responsibilities, Qualifications and Training Requirements.

8.6.a. A center shall assign one (1) individual the responsibility for monitoring and implementing training and maintaining training records.

8.6.b. A center shall require all staff to meet training requirements and pre-service education qualifications other than that noted in requirement 8.6.c. of this subsection. Provided: Staff persons who have remained employed by the center since July 1, 2003 and have been in continuous employment in that position or one requiring greater qualifications in a child care setting since July 1, 1998, shall be considered to meet the qualification of their position.

8.6.c. A center may offer an applicant for a lead teacher or teacher position conditional employment for a period of up to six (6) months pending completion of the pre-service education and training requirements described in this section.

8.6.d. Prior to or during the first week or employment and prior to having sole responsibility for a group of children, a center shall provide orientation to the staff member that includes a review of:

8.6.d.1. Licensing, other regulatory requirements, and a center's administrative manual;

8.6.d.2. Policies, staff duties and professional development plans;

8.6.d.3. Policies and procedures for confidentiality and information disclosure, behavior management, and reporting child abuse and neglect;

8.6.d.4. Policies and procedures for basic sanitation and infection control;

8.6.d.5. Policies and procedures for safety, including prevention of injury both indoors and outdoors, fire safety, emergency response and, for programs serving infants, safe sleep practices;

8.6.d.6. The statement of purpose;

8.6.d.7. The daily schedule of the center and the specific schedule for the group of children to which the staff person is assigned, including the planned program of activities, routines and transitions; and

8.6.d.8. Communication at a center, including procedures to inform staff of any special dietary or other needs of the children for whom they will be responsible.

8.6.e. A center shall document that orientation training was provided by having the staff member and center director sign a statement acknowledging receiving orientation training and shall keep the statement in the staff member's file.

8.6.f. A center shall ensure that all staff members receive approved training in:

8.6.f.1. Cardiopulmonary Resuscitation (CPR) and First Aid. Within six (6) months of employment or use staff members shall have current CPR certification appropriate to the age of the children in care and current first aid training. Except in the first year of employment or use, training in CPR and First Aid is in addition to the requirement for annual professional development.

8.6.f.2. Abuse Recognition and Prevention. Within six (6) months of employment or use, staff members shall have training in child abuse recognition and prevention. Training in child abuse recognition and prevention may be used to meet the requirement for annual professional development described in this section.

8.6.g. Prior to administering medication, the qualified staff member shall have training from an approved training source in medication administration. Training in medication administration may be used to meet the requirement for annual professional development described in this section.

8.6.h. A center shall ensure that prior to assuming management duties, including supervising other qualified staff members, assisting the director or serving as the designated person-in-charge of a center, a qualified staff member:

8.6.h.1. Completes the requirements for orientation training and management orientation training that includes a detailed review of the center's administrative manual and management practices; and

8.6.h.2. Co-signs with the director a statement which is kept in the staff member's file acknowledging he or she received management training.

8.6.i. A center that operates or plans to operate programs for children twenty-four (24) months of age and under shall meet the requirements of this Subdivision for staff training:

8.6.i.1. Prior to starting the program, shall ensure that each qualified staff member caring for the child has received a minimum of forty (40) hours of approved training related to the care of children twenty-four (24) months of age and under, and shall submit documented evidence of the training to the Secretary.

8.6.i.2. For an existing program which has been approved to expand the program or experiences staff turnover, shall ensure that within six (6) months of beginning to care for children twenty-four months of age and under, each qualified staff member shall have a minimum of forty (40) hours of approved training related to the care of children twenty-four (24) months of age and under. Until all staff members meet the requirements of this section, the center shall ensure:

8.6.i.2.A. That one (1) qualified staff member who has completed the minimum approved training, is present in the infant/toddler program for at least half of the operating hours daily;

8.6.i.2.B. That each staff member has a written plan for the completion of training that is agreed upon during orientation; and

8.6.i.2.C. That the center develops a mentoring plan which provides for weekly mentoring by a qualified and trained staff person for each staff member that has not completed approved training.

8.7. Professional Development

8.7.a. All qualified staff shall complete fifteen (15) hours of approved training within the first year of employment according to the following:

8.7.a.1. A director shall have six (6) hours in management training within the required fifteen (15) hours; and

8.7.a.2. Qualified staff members shall have six (6) hours of training related to the age group of children for which they care, within the required fifteen (15) hours.

8.7.b. All qualified staff shall apply for credentialing on the WV STARS Career Pathway.

8.7.c. All qualified staff shall complete the approved training which is necessary to keep the credential current.

8.7.d. All staff in positions that are not qualified staff positions shall have training within the first six (6) months of employment related to their responsibilities, renew child abuse and neglect recognition every three years and keep first aid and CPR certification current.

§78-1-9. Staff Responsibilities and Qualifications.

9.1. The Director shall:

9.1.a. Manage the daily operations of the center, including administering finances and human resources;

9.1.b. Supervise the teaching staff and the daily activities of support staff who provide services to the center and conduct a staff meeting at least once a month;

9.1.c. Make curricular decisions and plans and supervise all aspects of the children's program;

9.1.d. Communicate with staff members, children, parents, and the public;

9.1.e. Communicate with the Department and regulatory agencies to ensure compliance with all requirements;

9.1.f. Keep a record of any hours and days he or she has regular responsibility for an assigned group of children in a Type I or Type II center;

9.1.g. Not have regular responsibility for an assigned group of children in a Type III center;

9.1.h. Have the following qualifications:

9.1.h.1. Be at least twenty-one (21) years of age, provide evidence of at least one (1) year of relevant work experience; and have a minimum of a high school diploma or equivalent and;

9.1.h.2. In a Type I center, have a minimum of:

9.1.h.2.A. A CDA credential and three hundred (300) hours of relevant work experience working with young children or twelve (12) college credits in an early care and education field and three hundred (300) hours of relevant work experience working with young children; or

9.1.h.2.B. A total of ten (10) years of relevant work experience.

9.1.h.3. In a Type II center, have a minimum of:

9.1.h.3.A. A registered Apprenticeship Certificate for Child Development Specialist;

9.1.h.3.B. Twenty-eight (28) college credits, with at least nine (9) credit hours in early childhood development; or

9.1.h.3.C. Fifteen (15) years of relevant work experience.

9.1.h.4. In a Type III center, have a minimum of:

9.1.h.4.A. An associate's degree in early care and education;

9.1.h.4.B. A bachelor's or associate's degree in a related field with twelve (12) credit hours in early childhood development or early childhood education and ninety (90) practicum contact hours in the field of early childhood;

9.1.h.4.C. A bachelor's degree in a related field and a total of two (2) years of relevant work experience; or

9.1.h.4.D. A degree in a business, management or administration field with twelve (12) credit hours in early childhood development or early childhood education and three hundred (300) hours of work experience with young children.

9.1.i. Designate a person-in-charge to perform the duties of the director during all hours of operation when the director is not present at the center. The person-in-charge shall be a qualified staff member with a minimum qualification of teacher.

9.2. Assistant Director or Lead Teacher.

9.2.a. The duties and role of assistant director or lead teacher may be shared by the director and a teacher.

9.2.b. The assistant director or lead teacher may have responsibility for supervision, care and education of children and may be regularly assigned to a group of children.

9.2.c. The assistant director or lead teacher shall:

9.2.c.1. Plan and adopt programming that conforms to the core competencies of early childhood education and may implement daily program activities;

9.2.c.2. Coordinate the activities of teachers, assistant teachers, teaching assistants, and assist the director with designated activities;

9.2.c.3. Be at least twenty-one (21) years of age and have a minimum of one (1) year of relevant work experience and one of the following additional qualifications:

9.2.c.3.A. A CDA credential and three hundred (300) hours of relevant work experience working with young children or twelve (12) college credits in an early care and education field and three hundred (300) hours of relevant work experience working with young children;

9.2.c.3.B. A total of two (2) years of relevant work experience;

9.2.c.3.C. A registered Apprenticeship Certificate for Child Development Specialist, or twenty-eight (28) college credits, with at least nine (9) credit hours in early childhood development.

9.3. Teacher. A teacher shall:

9.3.a. Have responsibility for the supervision, care and education of children and be regularly assigned to a group of children;

9.3.b. Practice the core competencies of early childhood educators, and plan and implement daily program activities;

9.3.c. Coordinate the activities of assistant teachers and teaching assistants, and may assist the director, assistant director or lead teacher with designated activities; and

9.3.d. Be at least eighteen (18) years of age and have a minimum of one (1) year of relevant work experience and have one of the following additional qualifications:

9.3.d.1. A West Virginia Training Certificate in Early Care and Education (WVTCECE) or its equivalent;

9.3.d.2. A CDA credential and three hundred (300) hours of relevant work experience working with young children or twelve (12) college credits in an early care and education field and three hundred (300) hours of relevant work experience working with young children; or

9.3.d.3. A total of two (2) years of relevant work experience.

9.4. Assistant Teacher. An assistant teacher shall:

9.4.a. Practice the core competencies of early childhood educators;

9.4.b. Work with young children with guidance from a qualified staff member who qualifies, at a minimum, as a teacher;

9.4.c. Coordinate daily activities and supervise teaching assistants in the absence of the teacher; and

9.4.d. Have the following qualifications:

9.4.d.1. Be at least eighteen (18) years of age and have a minimum of one (1) year of relevant work experience;

9.4.d.2. Have a West Virginia Training Certificate in Early Care and Education (WVTCECE) or its equivalent.

9.5. Teaching Assistant. A teaching assistant shall:

9.5.a. Assist other qualified staff members with the care and education of the child, but shall not have responsibility for a group of children;

9.5.b. Work under the continuous supervision of a qualified staff member who qualifies, at a minimum, as an assistant teacher;

9.5.c. Have the following qualifications:

9.5.c.1. Be at least eighteen (18) years of age; and

9.5.c.2. Be enrolled in the WVTCECE program or its equivalent.

9.6. Teen Aide. A teen aide shall:

9.6.a. Be at least two (2) years older than the oldest child in the group with whom he or she is working; and

9.6.b. Not be left alone with a child other than his or her own child.

9.7. Student Intern. A center that uses student interns shall ensure that:

9.7.a. The student intern fulfills the requirements of an educational or training program;

9.7.b. The student intern performs duties under the direct supervision of a qualified staff member who has at least the qualifications of an assistant teacher;

9.7.c. The student intern receives periodic supervision from the educational or training program teacher-coordinator;

9.7.d. The student intern is not left alone with a child other than his or her own child;

9.7.e. A copy of the student intern's training plan and training agreement developed jointly by the educational or training institution and the center are on file at the center.

9.8. Substitute. The center shall ensure that:

9.8.a. A substitute has the appropriate background checks as required by this rule;

9.8.b. A substitute used in a position for less than two (2) weeks does not have sole responsibility for a group of children and works under the continuous supervision of, at a minimum, an assistant teacher; and

9.8.c. A substitute filling a position for more than two (2) weeks meets the minimum qualifications of the position for which he or she is substituting. A substitute meeting the qualifications of an assistant teacher or greater does not require continuous supervision when substituting for more than two (2) weeks.

9.9. Support Staff. The center shall ensure that support staff have appropriate qualifications for providing services to the center and meet the general and health requirements set forth in this rule.

9.10. Driver. A driver shall:

9.10.a. Be at least 21 years of age;

9.10.b. Have a valid driver's license that authorizes the driver to operate the vehicle being driven;

9.10.c. Upon hire, have evidence of a safe driving record for the five year period prior to hiring and have no record of DUI related convictions for a five year period;

9.10.d. Not be impaired to drive at the time of transporting children including impairment caused by prescription medication;

9.10.e. Submit to a drug and alcohol testing if required by center policy; and

9.10.f. Not be used if he or she refuses a required drug and alcohol test or tests positive.

9.11. Volunteer. The center shall ensure that prior to providing a direct service to the center, a volunteer:

9.11.a. Is not less than eighteen (18) years of age;

9.11.b. Receives direct supervision from a qualified staff member who is not less than twenty-one (21) years of age; and

9.11.c. Is not left alone with a child other than his or her own child.

§78-1-10. Supervision of Children in Groups.

10.1. A center shall ensure that:

10.1.a. The children have adequate supervision at all times;

10.1.b. Staff members are awake and performing their duties during work hours;

10.1.c. When a play area is used that is accessible to the public, the boundaries of the play area are clearly marked and known to the children;

10.1.d. The children remain in areas approved for daily program activities and do not go into other areas including the kitchen, unless it is part of the planned, supervised experience.

10.1.e. Children are accompanied by staff when utilizing public restroom or restrooms at the center that the general public is permitted to use.

10.2. Children shall be assigned to distinct groups according to the following:

10.2.a. Each group shall be assigned a room or area of a room as a home base, even if the group moves to other areas, inside and outside a center, for daily activities;

10.2.b. When more than one (1) group of children up to school-age uses the same room, a center shall divide the room into a designated activity area for each group;

10.2.c. A center shall separate indoor areas regularly occupied by older children from children twenty-four (24) months of age and under;

10.2.d. A center shall ensure that a common outdoor area is not regularly used at the same time by groups of school-age children and by groups five (5) years of age and younger.

10.2.e. During brief times, not to exceed thirty (30) minutes, when children are normally arriving and departing, and for short periods of scheduled activities such as eating, the center may combine groups of children, including groups of children twenty-four (24) months and under and groups of older children; and

10.2.f. During short periods of time for special occasions such as field trips, the center may combine school-age groups of children with children over the age of twenty-four (24) months.

10.3. Staff:Child Ratios.

10.3.a. When children are on the premises, a center shall ensure that at least two (2) staff members are on duty at all times.

10.3.b. When only one (1) qualified staff person is required to meet ratios at the beginning and end of the day, the second staff member may be a support staff member who is readily available in case of emergencies. A center shall ensure that while children are on the premises, the qualified staff member has completed a course in child first aid and has current certification in CPR appropriate to the age of the children in care.

10.3.c. A center shall assign each group of children to a qualified staff member or team of qualified staff members, maintaining at all times the staff:child ratios required under this rule. When groups are combined, a center shall continue to maintain the staff:child ratios required under this rule.

10.3.d. When more than one (1) qualified staff member is assigned to a group, a center shall designate one (1) qualified staff member as group leader with responsibility for planning the activities of the group to ensure that each child in the group receives developmentally appropriate care and adequate supervision on a day-to-day basis.

10.3.e. When only one (1) qualified staff member is assigned to a group, there shall be a plan enabling the qualified staff member to call a second staff member for help without leaving the group.

10.3.f. In determining and maintaining the staff:child ratio, a center shall not include any qualified staff member who is performing other duties such as cooking, bookkeeping, or life-guarding; or another individual with designated responsibility for a special activity; or a support staff member who is not directly working with the children except in an emergency situation when staff may be reassigned to supervise the children.

10.3.g. In determining and maintaining the staff:child ratio, a center shall have a plan to ensure that a qualified substitute is available if needed and is available when a staff person is absent for longer than a continuous two (2) week period.

10.4. A student intern who is at least 17 years of age, a Youth Apprentice, and in the second year of classes in the Child Development Specialist program approved by the WV Department of Education may count in the staff:child ratio, but may not work alone.

10.5. A center shall group children and consider their ages when determining the staff:child ratio as follows:

10.5.a. A center shall count each child twelve (12) years of age and under who is present and being cared for in the child care center, including a child of the director or a staff member, and shall not consider a teen aide to be a child;

10.5.b. When children are at the center, the center may use either a single grouping or a mixed-age combination to calculate the ratio according to the following:

10.5.b.1. For each singe-age group at a center, the center shall maintain the staff:child ratio and group size described in Table A of Appendix 78-1 E of this rule;

10.5.b.2. For each mixed age group at a center, the center shall maintain the staff:child ratio and group size described in Table A of Appendix 78-1 E of this rule for the youngest child in the group; and

10.5.b.3. When providing evening and nighttime care, a center shall maintain the staff:child ratio and group size described in Table A of Appendix 78-1 E of this rule. In addition, a center shall ensure that:

10.5.b.3.A. At least one (1) qualified staff member is in each room visually supervising the children at all times and checking at least hourly on each sleeping child; and

10.5.b.3.B. Each qualified staff member required to meet the staff:child ratio is on the premises and within calling distance of the rooms occupied by the children.

10.5.c. Special circumstances with staff:child ratio are:

10.5.c.1. During nap time or sleep time:

10.5.c.1.A. For groups of children twelve (12) months of age and under, a center shall ensure that each qualified staff member required to meet the staff:child ratio described in Table A of Appendix 78-1 E of this rule, is present in the nap or sleep area and able to see and hear all of the children at all times;

10.5.c.1.B. For groups of children over twelve (12) months of age who participate in a nap-time program, a center shall ensure that at least one (1) qualified staff member is in each area visually supervising the children and each qualified staff member required to meet the staff:child ratio is on the premises and within calling distance of the areas occupied by the children;

10.5.c.2. During transportation:

10.5.c.2.A. At all times when transporting a child, a center shall ensure that no child is unattended in a vehicle;

10.5.c.2.B. During Pick-up and Drop-off service:

10.5.c.2.B.1. A second staff person or volunteer shall accompany the driver during routine transportation for the purpose of pick-up and drop-off service when the vehicle will transport more than two children and at least one of those children is under the age of two years;

10.5.c.2.B.2. A second staff person or volunteer shall accompany the driver during routine transportation for the purpose of pick-up and drop-off service when the vehicle will transport more than four children of any age.

10.5.c.2.B.3. There shall be a staff or designated responsible person present outside the vehicle to supervise when children are loading or unloading from a vehicle.

10.5.c.3. Water activities.

10.5.c.3.A. When a child is participating in a Level I or Level II water activity, except a swimming lesson with a qualified instructor, a center shall maintain staff:child ratios described in Table B of Appendix 78-1 E of this rule; and

10.5.c.3.B. When two (2) or more children twenty-four (24) months of age and under are participating in a Level I or Level II water activity in a mixed age group, except a swimming lesson with a qualified instructor, the center shall ensure that at least two (2) qualified staff members are present;

10.5.c.4. Field Trips.

10.5.c.4.A. A center shall ensure that when a child is participating in a Level I field trip, that the staff:child ratio is maintained in accordance with Table A of Appendix 78-1 E of this rule and that at least one staff member or volunteer accompanies one (1) qualified staff member who must be present at all times;

10.5.c.4.B. A center shall ensure that when a child is participating in a Level II field trip that the staff:child ratio is maintained in accordance with Table A of 78-1-E of this rule and that at least two (2) qualified staff members are present at all times.

§78-1-11. Supervision of the Individual Child.

11.1. Guidance, Behavior Management, and Discipline. A center shall:

11.1.a. Develop, implement and maintain policies and procedures for behavior management that include the prohibitions described in Subsection 11.4. of this rule;

11.1.b. Ensure that the guidance, behavior management and discipline practices are constructive and educational in nature, appropriate to each child's age and circumstances, and in keeping with the center's policies and procedures;

11.1.c. Ensure that staff members are aware of behavior issues relating to an individual child, and treat behavior problems individually and in private;

11.1.d. Delegate behavior management to qualified staff members who have an ongoing relationship with a child; and

11.1.e.Ensure that when it appears that a child is developing a pattern of unacceptable behavior, the staff member with the delegated responsibility for the child discusses the child's behavior in private with the director and informs the child's parents.

11.2. Guidance. At all times, staff members are responsible for providing positive guidance that is appropriate to each child's age, understanding and circumstances. Staff members shall:

11.2.a. Teach by example;

11.2.b. Recognize and encourage acceptable behavior;

11.2.c. Make eye contact with the child and kneel or sit beside the child whenever possible when speaking to the child;

11.2.d. Supervise with kindness, understanding and firmness;

11.2.e. Define clear limits, set fair and consistent rules and, when appropriate, permit an older child to participate in the development of rules and procedures;

11.2.f. Help a child develop self control to assume responsibility for his or her own actions;

11.2.g. Guide a child's activities in an orderly manner;

11.2.h. Prepare a child for his or her next activity a few minutes ahead of time, and allow the child a brief transition time before beginning the new activity;

11.2.i. Help a child avoid long waiting periods when the child has nothing to do by ensuring that the environment includes materials that hold his or her attention; and

11.2.j. Help a child feel successful at tasks and provide options if chosen tasks prove to be too difficult.

11.3. Behavior Management and Discipline. When a behavior problem arises, qualified staff members shall:

11.3.a. Redirect the child to alternative behavior or other activities;

11.3.b. Encourage the child to control his or her own behavior, cooperate with others and solve problems by talking things out;

11.3.c. Speak so that the child understands that feelings are acceptable, but inappropriate behaviors and actions are not;

11.3.d. Use appropriate time-out periods only as necessary for a child to calm down or gain control of his behavior.

11.3.e. Time-out is:

11.3.e.1. Used for behaviors that are persistent and unacceptable, used infrequently, and not for over one (1) minute for each year of a child's age;

11.3.e.2. Used only for children over the age of three (3) years;

11.3.e.3. Used by a qualified staff person familiar to the child. The staff person must explain to the child how time-out works before its first use and be clear about the behavior that will result in time-out;

11.3.e.4. Ended in a positive manner. The staff person helps the child explore other options that would have resulted in a different outcome.

11.3.f. Ensure that during a time-out period that removes the child from the group, the child is within sight and hearing of a staff member in a safe, lighted and well-ventilated space;

11.3.g. Maintain perspective about the minor misbehavior of the school-age child and recognize that every infraction does not warrant staff attention or intervention; and

11.3.h. Take action that relates to inappropriate behavior and ensure that any action that is taken is without bias and in proportion to the child's act.

11.4. Handling Behavior Problems. Staff members and other adults at a center shall not handle behavior problems by:

11.4.a. Subjecting a child to physical punishment of any kind, including, but not limited to, shaking, striking, spanking, swatting, thumping, pinching, popping, shoving, spitting, biting, hair puling, yanking, slamming, excessive exercise or any cruel treatment that may cause pain;

11.4.b. Putting anything in or on a child's mouth as punishment;

11.4.c. Restraining a child physically or by placing the child in confining equipment or using any other restrictive means such as straps or ties. Provided: when a child's behavior places the child or others around the child at risk of physical harm, a staff person may use a gentle method of physically holding the child. The staff person must be an experienced staff member and one that is known to the child and shall only restrain the child for as long as is necessary for the child to regain control;

11.4.d. Subjecting a child to psychological punishment of any kind, including, but not limited to, ridicule, humiliation, or negative remarks about the child or the child's family, including remarks about race, gender, religion, or cultural background;

11.4.e. Using harsh or profane language, or actual or implied threats of physical punishment;

11.4.f. Forcing or bribing a child to eat;

11.4.g. Using food as a reward or punishment;

11.4.h. Punishing or threatening a child in association with rest or toilet training;

11.4.i. Isolating a child without supervision or placing the child in a dark area such as a box, closet, or similar confined space;

11.4.j. Permitting a child to discipline other children;

11.4.k. Punishing an entire group for the actions of one child or a few children; or

11.4.l. Seeking or accepting parental permission to use physical punishment or other actions prohibited by this rule.

11.5. Difficult Behavior Plan. When a child's behavior problems continue over time, the director and staff member with delegated responsibility shall develop and implement a plan for managing the difficult behavior. The director shall ensure that:

11.5.a. A parent is given written communication about the circumstances necessitating the plan and is provided the opportunity to participate in the development of the plan. The center shall provide the parent with a copy of the completed plan and regular written reports of the child's progress;

11.5.b. When necessary and appropriate, other professionals also participate in the development and implementation of the plan and, when necessary, receive written reports of the child's progress; and

11.5.c. Staff members cooperate in implementing the plan and keep on file at the center a copy of the plan, a record of the steps taken during implementation, and the child's progress in meeting the goals of the plan.

11.6. Abuse and Neglect. A center shall develop, implement and maintain policies and procedures for the reporting of child abuse and neglect that include:

11.6.a. The definition of child abuse and neglect;

11.6.b. The requirement to report immediately any suspected incident of child abuse and neglect to the director or designated person-in-charge, and to Child Protective Services; or when the staff member believes that the director or designated person-in-charge would not or has failed to report the suspected incident to the Child Abuse Hotline, 1-800-352-6513; and

11.6.c. A statement posted at the center in clear public view stating that the center reports suspected child abuse and neglect to Child Protective Services.

11.7. Informing Staff about Behavior Management and Report Procedures. The center shall inform staff about behavior management procedures and child abuse and neglect reporting by:

11.7.a. Providing each staff member a copy of its policies on behavior management and the reporting of child abuse and neglect, and providing revised policies when changes occur;

11.7.b. Obtaining a signed and dated acknowledgement that the staff member has read and understands the policies or revised policies; and

11.7.c. Placing the signed acknowledgement statement in the staff member's file.

11.8. Informing Parents about Behavior Management and Reporting Procedures. At the time of a child's admission, a center shall inform parents about the center's behavior management procedures and child abuse and neglect reporting requirements by:

11.8.a. Providing to each child's parent written copies and an oral explanation of a center's policies on behavior management and the reporting of child abuse and neglect, and updating parents on policy changes when they occur;

11.8.b. Obtaining a signed and dated acknowledgement that the center has explained the policies and provided the parent with a copy. The statement shall bear the child's name, the date of enrollment, and, if different, the date the parent signs the statement; and

11.8.c. Placing the signed statement in the child's file for as long as the child is enrolled.

§78-1-12. Space Requirement.

12.1. Licensed Capacity. A center shall ensure that at all times the maximum number of children participating in activities on or off the premises does not exceed the licensed capacity determined by the separately computed area of indoor space, outdoor space and bathroom facilities, not to exceed the lowest number of the three computations. Personnel and group size may be factored into the maximum capacity for certain age groups.

12.2. Indoor Space.

12.2.a. A center shall provide a minimum of thirty-five (35) square feet per child of usable indoor space that is approved by the Secretary for daily program activities. A center shall make the rooms and areas of the center that are not approved for a child's use inaccessible to the children.

12.2.b. Indoor space for daily program activities does not include any space that is not available for a child's activities including space occupied by columns, vestibules and corridors; fire escapes; areas used exclusively for eating; areas used exclusively for napping; bathrooms; staff lounges; adult work areas including offices, laundry and furnace rooms; kitchens; permanently equipped isolation areas; storage spaces, and areas occupied by furniture except for areas that have:

12.2.b.1. Children's chairs and tables;

12.2.b.2. Adult sized comfortable chairs or a couch;

12.2.b.3. Moveable play equipment and shelves for children's activities; or

12.2.b.4. A surface for changing diapers.

12.2.b.5. For centers that have a separate and distinct designated activity area for children under twelve (12) months of age, cribs may be considered part of that useable indoor space, provided that no more than thirty (30) percent of the useable space is occupied by cribs.

12.2.c. A center shall not provide activity space in a basement area unless the basement area is approved by the State Fire Marshal.

12.3. Outdoor Space.

12.3.a. A center shall provide an outdoor activity area that includes a minimum of seventy-five (75) square feet of space per child, or if the outdoor activity area has less than that a center shall:

12.3.a.1. Establish an outdoor activity schedule for rotating groups of children to meet the minimum space requirement and to ensure that each child has an opportunity to play outdoors each day; and

12.3.a.2. Submit to the Secretary for his or her approval a copy of the current outdoor activity schedule and shall use the outdoor space only after receiving the Secretary's written approval that shall be displayed at the center for public view.

12.3.b. A center shall:

12.3.b.1. Provide an outdoor activity area that is on its premises or immediately adjacent to its premises; or

12.3.b.2. When neither of the options in Paragraph 12.3.b.1. of this rule is possible, shall submit a plan for the Secretary's approval for alternate outdoor activity space to meet the children's outdoor activities requirement and shall use the outdoor space only after receiving the Secretary's written approval.

12.4. Bathrooms. The center shall provide one (1) flush toilet and one (1) lavatory per fifteen (15) children, excluding children in diapers who are not receiving toilet training.

§78-1-13. Furnishings, Equipment and Materials.

13.1. General Requirements. A center shall provide furnishings, equipment and materials that:

13.1.a. Are available in sufficient quantity for the number of children;

13.1.b. Are appropriate in type, arrangement and use for the developmental needs of the children;

13.1.c. Are durable and safe;

13.1.d. Are in good repair and free of sharp points or corners, pinch or crush points, splinters, protruding nails or bolts, loose rusty parts, hazardous small parts that may be swallowed, identified poisons or paint that contains lead, and are regularly inspected by staff for potential hazards;

13.1.e. Are regularly cleaned and disinfected;

13.1.f. Are evaluated at regular intervals by the director and teacher to ensure their ongoing appropriateness for the age and number of children; and

13.1.g. Support the children's linguistic and intellectual development, and assist in providing for their physical, emotional, psychological, social and personal needs.

13.2. Specific furnishings shall include:

13.2.a. Children's chairs and tables that are multipurpose and not stationary;

13.2.b. Moveable play equipment;

13.2.c. Open shelves for play equipment for children's daily activities; and

13.2.d. Sleeping equipment as required in this rule.

13.3. Furnishings for Centers with Children Twenty-Four (24) Months of Age and under.

13.3.a. In centers that enroll children twenty-four (24) months of age and under, or children that cannot function independently, a center's furnishings shall include:

13.3.a.1. Adult-sized comfortable chairs and a table or other surface for changing diapers that has raised sides or other features that prevent the child from falling and that are located in an area that is removed from the activities of the other children;

13.3.a.2. Furniture that is child-sized or adapted for children; and

13.3.a.3. Feeding equipment that is appropriate and sufficient for the children's sizes, ages, and numbers served. When feeding equipment is a high chair, the chair shall have a wide base and a T-shaped safety strap;

13.3.b. Jumpers and infant walkers are prohibited.

13.3.c. Play pens and play yards, if used, must be manufactured after February 28, 2013, properly disinfected after each use and not used for multiple children at the same time.

13.4. Sleeping Equipment. A center's sleeping equipment:

13.4.a. For children who participate in a nap-time program shall include:

13.4.a.1. One (1) crib with a firm mattress for each child twelve (12) months of age and under or who is up to thirty-five (35) inches tall;

13.4.a.2. One (1) crib with a firm mattress, mat or cot for each child between thirteen (13) and twenty-four (24) months of age; and

13.4.a.3. One (1) mat, cot, or bed for each child over twenty-five (25) months of age;

13.4.b. For evening and nighttime programs shall not include mats as sleeping equipment;

13.4.c. For the care of an ill child shall include at least one (1) disinfected cot;

13.4.d. Shall be cleaned and disinfected at least once a week, or before another child uses it, or immediately after it is soiled;

13.4.e. Includes the following specifications for cribs;

13.4.e.1. Cribs shall comply with the federal standards for cribs and non-full size cribs, 16 CFR 1219 or 16 CFR 1220;

13.4.e.2. The mattress shall be manufactured for sale in the United States as infant sleeping equipment and fit the crib snugly with no more than one half (1/2) inch between it and the crib side;

13.4.e.3. The crib shall be sturdy, non-collapsible and easily disinfected;

13.4.e.4. The minimum height from the top of the mattress to the top of the crib rail shall be twenty (20) inches;

13.4.e.5. Each mattress shall have a form fitting cover that is durable and able to be easily disinfected; and

13.4.e.6. The use of traditional drop side cribs, and any crib manufactured prior to June 28, 2011, is prohibited unless the center obtains a certificate of compliance from the manufacturer that the crib is compliant to the current federal standards.

13.4.f. Includes the following specifications for mats:

13.4.f.1. They shall be at least two (2) inches thick; and

13.4.f.2. They shall have form-fitting covers that are durable, waterproof and able to be easily disinfected;

13.4.g. Includes the following specifications for cots:

13.4.g.1. The bottom of the cot's sleeping surface shall not be less than three (3) inches and not more than eighteen (18) inches off the floor;

13.4.g.2. The cot shall be firm enough to support the child;

13.4.g.3. The cot shall be of sufficient size to comfortably accommodate the size and weight of the child; and

13.4.g.4. The cot shall be constructed of a material that can be easily disinfected.

13.4.h. Shall not permit children to:

13.4.h.1. Sleep on the floor;

13.4.h.2. Sleep on the floor in a sleeping bag or on bed linens alone;

13.4.h.3. Sleep in a stacked crib or consecutively attached crib;

13.4.h.4. Share a bed or cot, even with a family member; or

13.4.h.5. Use a crib if they are over thirty-five (35) inches tall.

13.4.i. Includes the following specifications for bedding:

13.4.i.1. Mattresses or cots shall be waterproof or have a waterproof cover;

13.4.i.2. Bedding, including sheets and blankets, shall be clean and in good condition;

13.4.i.3. Bedding shall not be used by more than one child at a time;

13.4.i.4. Bedding shall be used to cover all sleeping surfaces before being used;

13.4.i.5. Seasonally appropriate covers or clothing shall be used, sufficient to maintain adequate warmth. For children 12 months of age and younger a sleeper may be worn or a thin blanket used for a covering. If a blanket is used, it shall be tucked around the mattress of the crib and only cover the child as high as his or her chest;

13.4.i.6. Pillows or soft, fluffy bedding shall not be used for the child twelve (12) months of age and under;

13.4.i.7. Pillows or soft fluffy bedding made of substances of animal origin other than wool, including feathers and animal hair, that commonly cause allergic reactions, shall be prohibited; and

13.4.i.8. A center shall change bedding when soiled, prior to use by another child and at least weekly, except sheets on cribs that shall be changed at least daily.

13.4.j. Includes the following requirements when providing evening or nighttime care:

13.4.j.1. Each cot or bed shall have a pillow, pillow case and two (2) sheets; and

13.4.j.2. When the sleeping surface is a mattress, the bottom sheet shall be secure.

13.5. Indoor activity Equipment and Materials. A center shall provide equipment and materials for indoor activities that:

13.5.a. Are appropriate to the child's age and developmental level;

13.5.b. Support many types of activities, including social and fantasy play; exploration and mastery of skills and language; music, art and movement; and gross motor experiences as described in Appendix 78-1 A of this rule;

13.5.c. Are available in sufficient quantity to permit each child to choose from among several of each type, to allow for sharing and prevent conflict, and to allow staff to keep reserves for rotation;

13.5.d. Represent diverse cultures, ethnic groups, gender roles and abilities in ways that do not reinforce stereotypes;

13.5.e. Are clearly organized within activity areas that support programming goals and allow for adequate supervision;

13.5.f. Are complete, sturdy, clean and in good working condition;

13.5.g. Are lead-free and otherwise nontoxic; and

13.5.h. Maximize safety by ensuring that:

13.5.h.1. Indoor play equipment, shelves, and large objects, such as televisions and computer monitors, are firmly anchored;

13.5.h.2. Use zones are extended by at least six (6) feet in all directions from the perimeter of indoor climbing equipment, and the use zone surfacing is constructed of material that has an American Society for Testing and Materials (ASTM) rating for the critical fall height of the equipment. The use zone surfacing shall be securely fixed in place;

13.5.h.3. Climbing equipment for children under twenty-four (24) months may not exceed thirty-two (32) inches in height. If the climbing equipment is located in the designated area for children under twenty-four (24) months, then the use zone shall extend at least thirty-six (36) inches;

13.5.h.4. Small objects, toys and toy parts that have diameters of less than one (1) and one quarter (1/4) inch that can be swallowed are not accessible to children less than four (4) years of age; and

13.5.h.5. Plastic bags, latex gloves and styrofoam objects are not accessible to the child less than four (4) years of age, and that balloons are completely prohibited in a center that serves children less than school age.

13.6. Outdoor Activity Equipment and Materials. A center shall provide equipment and materials for outdoor activities that:

13.6.a. Are appropriate to the child's age and developmental level;

13.6.b. Support many types of experiences as listed in Appendix 78-1 A of this rule;

13.6.c. Are available to the child in sufficient quantity to permit each child to choose at least two (2) types of outdoor play experiences and to allow for sharing and prevent conflict;

13.6.d. When a child is not ambulatory, are appropriate for outings, such as a stroller or carriage; and

13.6.e. Maximize safety by ensuring that:

13.6.e.1. All outdoor equipment is installed, maintained and used in accordance with the manufacturer's instructions;

13.6.e.2. The position of the outdoor equipment prevents hazards from conflicting activities;

13.6.e.3. The use zones are free of obstacles, except for the support structures for the swings;

13.6.e.4. The supports for climbers, swings, and other heavy equipment are securely anchored so that they pose no threat to the children's safety, even when the equipment is designed to be portable;

13.6.e.5. Each swing frame for the child twenty-four (24) months of age and under has a maximum of two (2) seats;

13.6.e.6. Metal equipment is in the shade, if at all possible;

13.6.e.7. When the center has a sand box, that the box permits drainage, is covered when not in use, and that the sand does not contain toxic or other harmful materials and is free of animal excrement and other debris; and

13.6.e.8. The outdoor area is free of wading pools and other equipment that might hold water which pose a drowning hazard to the child or a breeding environment for mosquitoes.

13.7. Safety helmets shall be worn by all riders when using a riding toy or riding equipment that requires balancing while moving or when the riding equipment is being used off site.

13.8. Standard trampolines are prohibited unless used as a special activity and the activity complies with sub-section 14.8 of this rule. Trampolines used as part of a child's plan due to special needs are not subject to this prohibition.

13.9. Storage of Equipment, Materials and Supplies. A center shall provide storage for equipment, materials and supplies that includes:

13.9.a. Open shelves, at the appropriate level from the floor, for activity items so that children may select, remove and replace items independently;

13.9.b. A container, shelf, or cupboard that is inaccessible to children but permits staff to reach supplies, such as clean diapers, without leaving a child unattended;

13.9.c. A closet when used that is accessible to children and has a latch with an internal release so that the door can be opened by a child inside the closet; and

13.9.d. Separate storage areas for each child's personal belongings, including appropriate safe storage for the school-age child's money and ongoing projects.

§78-1-14. Program.

14.1. For each program offered and for each group of children, a center shall prepare and follow a written daily schedule that:

14.1.a. Reflects the goals and objectives set out in the statement of purpose;

14.1.b. Is based on knowledge of child development and learning, and on the needs of the enrolled children;

14.1.c. When necessary to accommodate the needs of a child, follows a written individualized plan, developed with advice from a variety of professional sources, including, but not limited to, an early intervention specialist or a licensed health care provider; and

14.1.d. Is posted in clear, public view and in each designated activity area for each group of children.

14.2. A center shall ensure that each program includes flexible program activities that:

14.2.a. Are appropriate to a child's age and developmental level;

14.2.b. Include an appropriate balance of:

14.2.b.1. Indoor and outdoor activities;

14.2.b.2. Activities that use both large and small muscles;

14.2.b.3. Quiet and active play periods;

14.2.b.4. Active and passive learning experiences;

14.2.b.5. Individual and several types of group activities; and

14.2.b.6. Teacher-initiated and child-initiated activities;

14.2.c. Provide opportunities for a child to choose from among several possible activities, or choose not to participate in structured activities at certain times of the day;

14.2.d. Provide a variety of social experiences through grouping arrangements, including mixed-age experiences, that take into account each child's level of maturity;

14.2.e. Include routines at regularly scheduled times, such as sleeping, eating, dressing, toileting, hygiene and diapering;

14.2.f. Are planned so that a child has sufficient time to progress at his or her own developmental rate and does not experience a prolonged waiting period between activities or tasks;

14.2.g. Provide a child with the freedom to get a drink of water or go to the toilet as he or she feels the needs, in keeping with the requirements of this rule; and

14.2.h. Respect cultural diversity and incorporate aspects of a child's culture, including his or her language, traditional food and celebrations.

14.3. A center shall ensure that each program follows guidelines for:

14.3.a. Sleeping routines. A center shall:

14.3.a.1. Provide a designated area where a child can sit quietly or lie down to rest;

14.3.a.2. Ensure that a child twenty-four (24) months of age and under is able to nap according to his or her developmental needs;

14.3.a.3. Ensure that the schedule for a child between twenty-five (25) months of age and school-age who is in care for more than four (4) daytime hours includes a regular nap period of at least one (1) hour each day for the child who sleeps, an opportunity for rest and quiet play for the child who is unable to sleep during the nap period, and a regular nap period for the school-age child who needs it; and

14.3.a.4. Ensure that staff members initially place the child twelve (12) months of age and under, or under the age when he or she can turn over independently, on his or her back unless the parent provides a written statement from a licensed health care provider prohibiting the child from being placed in that position for sleep;

14.3.b. Brushing Teeth. A center shall provide appropriate opportunities for the children in care to have supervised practice of brushing teeth on a daily basis; and

14.3.c. Active Play and Movement. The center shall promote children's active play every day by providing the opportunity to engage in moderate to vigorous activities. There shall be a weekly written plan for each group of children, which may be incorporated into the group's lesson or activity plan, that provides:

14.3.c.1. For children, six (6) weeks to six (6) years, at least two (2) structured or staff led activities daily that promote gross motor movement skills;

14.3.c.2. No less than one hour of planned outdoor activity daily with opportunities to develop and practice age-appropriate gross motor movement skills, provided:

14.3.c.2.a. Weather and circumstances permit and there are no weather or condition advisories indicating the need to remain indoors;

14.3.c.2.b. Children less than one (1) year of age are taken outside two (2) to three (3) times per day;

14.3.c.2.c. Children older than twelve (12) months are allowed sixty (60) to ninety (90) total minutes of outdoor play daily; and

14.3.c.2.d. When weather or adverse conditions curtail outdoor activity time, the amount of indoor active play is increased so that the total amount of time spent in active play remains the same.

14.3.c.3. A minimum of sixty (60) minutes of moderate to vigorous activity per eight-hour (8) day for toddlers and children up to three (3) years;

14.3.c.4. A minimum of ninety (90) minutes of moderate to vigorous activity per eight-hour (8) day for children three (3) years to school age;

14.3.c.5. Centers operating less than six (6) hours or WV Pre-k classrooms incorporated into the center to prorate the time requirements of this subdivision; and

14.3.c.6. Infants not yet able to crawl, supervised time on their stomachs every day while they are awake.

14.3.d. Restrictive equipment. Infant equipment that restricts movement such as swings, play pens, play yards, stationary activity centers (exersaurces), infant seats, etc., if used, shall only be used for short periods of time not to exceed fifteen (15) minutes in a four (4) hour period.

14.3.e. Staff participation. Qualified staff shall promote children's active play, and participate in children's active games at times when they can safely do so.

14.4. For infants and toddlers, a center shall follow these additional daily program requirements:

14.4.a. Beginning with the pre-admission meeting between the director or designated staff member and the parent, a center shall work with a child's parent to prepare a written schedule that:

14.4.a.1. Respects a child's normal pattern of activities, sleeping and eating;

14.4.a.2. Is consistent with a child's needs and capabilities;

14.4.a.3. Provides a child with opportunities to interact with staff members, participate in program activities, be outdoors daily as appropriate, and be diapered or toileted as needed; and

14.4.a.4. Identifies qualified staff who will primarily care for the child.

14.4.b. A center shall ensure that the schedule is available for reference in the child's program area.

14.4.c. A center shall ensure that qualified staff members:

14.4.c.1. Evaluate and modify the schedule on a frequent and regular basis, according to the child's developmental needs and in consultation with the child's parent; and

14.4.c.2. For each infant prepare a written daily report with information about a child's activities in the following areas:

14.4.c.2.A. Food intake;

14.4.c.2.B. Sleeping patterns;

14.4.c.2.C. Bowel movements;

14.4.c.2.D. Developmental milestones, such as sitting and crawling; and

14.4.c.2.E. Unusual events.

14.5. Staffing Pattern. A center shall arrange its staffing pattern so that each child has a primary care giver who is a qualified staff member. Staff members shall interact personally with the infant, toddler, and child under school age by:

14.5.a. Holding, rocking and playing whenever possible, including while bathing, dressing and carrying the child;

14.5.b. Encouraging positive communication and language development by making eye-to-eye contact with the child, singing, talking, reacting to the child's communications, naming objects, reading stories and playing musical games;

14.5.c. Paying attention to crying and meeting the immediate needs of the child;

14.5.d. Ensuring that no child is routinely left in a crib, except for sleep or rest; and

14.5.e. Providing a child who is awake play equipment and opportunities to play freely on a clean, safe floor.

14.6. Night Time Care. When a center provides evening or nighttime care, the center shall:

14.6.a. Plan a program that respects the normal sleeping periods, and evening and morning routines of the child;

14.6.b. Establish and post a schedule for the child in consultation with the child's parent that provides for:

14.6.b.1. Quiet activities before bedtime and opportunities for the older child to complete homework or work on projects or hobbies;

14.6.b.2. Meals and snacks;

14.6.b.3. Routine preparations for bed; and

14.6.b.4. Dressing in the morning, when appropriate.

14.6.c. Ensure that no child remains in care for more than eighteen (18) hours in a twenty-four (24) hour period.

14.6.d. Ask the parent to provide for the child's personal use a clean, comfortable, nonflammable or flame retardant sleeping garment and other personal items, such as a comb or brush, and label the child's personal use items; and

14.6.e. Ensure that staff members supervise a child's bath or individual shower, respecting the child's privacy according to the child's developmental needs.

14.7. Screen Media. When a center plans to use screen media, its use must either be included on the posted daily schedule or incorporated into the group's written lesson or activity plan. The center shall ensure that:

14.7.a. The media supplements, but does not replace traditional early childhood materials;

14.7.b. A child has a choice of other activities and materials;

14.7.c. Staff members are available to support the activity by discussing the use of the ~~active~~ media with the child;

14.7.d. The media is developmentally appropriate and supports creative play and learning;

14.7.e. Media with sexual or violent content, profanity or aggressive behavior is not used;

14.7.f. Each group limits the use of screen media to not more than seventy five (75) minutes per week for each child between the ages of two (2) years and school age, and for educational or physical activity use only;

14.7.g. Each group limits the use of screen media to not more than seventy five (75) minutes per week for each school age child and for educational or physical activity use; provided the use of computers and screen media for school assigned homework is not included in the seventy five (75) minute time limit; and

14.7.h. Use of screen media is prohibited with children under the age of two (2) years.

14.8. Special Activity. When a center participates in a special activity, the center shall provide staff who are trained and supervised to enforce safety regulations, provide necessary instructions, and identify and manage environmental and other hazards related to the special activity. Prior to the special activity, the center shall:

14.8.a. Have on file an activity plan that includes, but is not limited to:

14.8.a.1. The qualifications of the supervisor of the special activity;

14.8.a.2. The special qualifications, if any, of any other staff member necessary for adequate supervision of the activity;

14.8.a.3. A supervision plan that includes the number of staff members needed to adequately supervise the activity;

14.8.a.4. The conditions under which a child may participate in the activity, such as the child's age or skills;

14.8.a.5. Any special equipment necessary, such as life jackets, helmets, or other safety gear; and

14.8.a.6. Special safety practices and emergency procedures;

14.8.b. Provide the parent with copy of the activity plan and have written permission dated and signed by the parent for the child's participation in the activity; and

14.8.c. Assign appropriate staff to the activity by:

14.8.c.1. Choosing a staff member for the special activity who has appropriate experience, training or certification in the activity;

14.8.c.2. Having on file at the center verification of the responsible staff member's experience, training or certification; and

14.8.c.3. Ensuring that the responsible staff member is present at the site of the activity.

14.9. Water Activities. When a center plans water activities, the center shall:

14.9.a. Have on file at the center written permission dated and signed by the parent prior to the child's participation in any water activity;

14.9.b. Ensure constant supervision of a child participating in any aspect of any activity involving water;

14.9.c. Ensure adequately prepared staff who are in the water or prepared to enter it at any time and have a system, known to the children and staff members, for checking to ensure that each child is safe when in the water;

14.9.d. Ensure that when a child is participating in a level I or Level II water activity, a staff member is present who has successfully completed training in first aid and CPR, appropriate to the age of the child;

14.9.e. Ensure that when a child is participating in a Level II water activity, the activity is also guarded by an individual who:

14.9.e.1. Is an appropriately certified lifeguard;

14.9.e.2. Has skills in rescue and emergency procedures specific to the aquatic area and activities guarded; and

14.9.e.3. Is trained and supervised to enforce safety regulations, provide necessary instructions, and identify and manage environmental and other hazards related to the aquatic activity; and

14.9.f. Ensure proper equipment and safety further by:

14.9.f.1. Evaluating the child and classifying the child as either a swimmer or a non-swimmer, prior to allowing a child to participate in a Level II water activity;

14.9.f.2. Assigning equipment, facilities and activities equivalent to the child's individual abilities and based on a child's classification; and

14.9.f.3. Ensuring that rescue equipment is in full working condition, available and accessible to a child at each water activity site.

14.10. Field Trip. When a center plans a field trip, the center shall:

14.10.a. Have on file a written field trip plan that includes:

14.10.a.1. The names of the children, staff members, and any other participants on the field trip;

14.10.a.2. The departure and return times;

14.10.a.3. The means of travel and routes to be taken;

14.10.a.4. An alternate plan in case of bad weather;

14.10.a.5. The name of a contact person at the center;

14.10.a.6. The name, address, and telephone number, if applicable, of each destination;

14.10.a.7. Relevant safety rules to be followed; and

14.10.a.8. Special emergency procedures;

14.10.b. Obtain written permission from the child's parent prior to the field trip; and

14.10.c. Identify the name or names of the assigned qualified staff member or members responsible for the field trip who shall take with him or her a copy of the written field trip plan, first aid supplies and emergency information for each participating child.

§78-1-15. Health.

15.1. Child Immunization Records.

15.1.a. Within thirty (30) days of admitting a child, a center shall have on file a record of a child's immunizations or a plan for completion signed by the child's licensed health care provider.

15.1.b. If center policy allows, exemptions from immunization requirements shall be available for parents who provide written documentation of religious objections to immunization.

15.1.c. Exemption from immunization requirements shall be available for parents who provide a signed statement from the child's licensed health care provider indicating that immunization is contraindicated based on the child's medical condition

15.2. Child Health Assessment.

15.2.a. A center shall have on file no later than thirty (30) days after the admission, the child's health records, including a record of a health assessment signed by the child's licensed health care provider, that includes the following medical and developmental information, and any special required instructions for the center:

15.2.a.1. The child's current height and weight;

15.2.a.2. A description of any allergy, current health problem or condition that may affect the child's adaptation to care, including abnormal results of screening tests, for vision, hearing, tuberculosis, or lead poisoning;

15.2.a.3. Prescribed daily medications and any potential side effects;

15.2.a.4. The child's health history, including, as applicable, information about a serious illness or significant communicable disease, an injury that required medical attention or hospitalization, a previous surgery, or a history of prematurity; and

15.2.a.5. A medical plan of care, if the child has a chronic health condition that requires specific attention or has the potential to become a medical emergency.

15.2.b. A center shall provide parents with a West Virginia Health Check periodicity chart for child health exams and shall ensure that a child's health assessment is updated with new or current information at least every two (2) years for the child under the age of six (6) years.

15.2.c. If a child is between six (6) weeks and three (3) months of age, a center shall have on file a statement signed by the child's licensed health care provider permitting the child to enter group care.

15.3. Medical Treatment.

15.3.a. A center shall develop, implement and maintain health policies and procedures that include protocols to follow when medical treatment is required by a child whose parent has on file a signed statement objecting to treatment.

15.3.b. When the child's parent objects to medical treatment on the grounds that it conflicts with the convictions of his or her religion or conscience, the center shall have on file a statement of the objection to treatment signed by the child's parent.

15.4. Child Illness at the Center.

15.4.a. A center shall ensure that staff members observe a child daily and watch for changes that my indicate injury, infestation or illness, and record any observed changes in the child's file.

15.4.b. When staff members observe changes in a child that may indicate illness or when a child is ill, staff members shall:

15.4.b.1. Remove the child to a designated quiet area to rest comfortably under supervision;

15.4.b.2. Take the child's temperature and record it in the child's file;

15.4.b.3. Use universal precautions, as required; and

15.4.b.4. Contact the child's parent or other individual authorized by the parent to assume responsibility for the child.

15.4.c. When taking a child's temperature, staff members shall not use a mercury thermometer or the rectal method for any child.

15.4.d. A center shall inform the parent and suggest that the parent consult a licensed health care provider for a child who has a fever:

15.4.e. A center shall exclude a sick child from the center:

15.4.e.1. Immediately when a child has a serious communicable illness;

15.4.e.2. When the illness prevents a child from participating in routine activities;

15.4.e.3. When a child's illness results in a greater need for care than staff members can provide without compromising the health and safety of the other children;

15.4.e.4. When a child appears to have any of the following symptoms, unless a licensed health care provider determines that they do not indicate a communicable disease:

15.4.e.4.A. Fever with stiff neck, lethargy, irritability, or persistent crying;

15.4.e.4.B. Diarrhea in addition to signs of dehydration, such as a decrease in urination as indicated by a reduction in the number of wet diapers, no tears when crying or a decrease in activity, or blood or mucus in the stool;

15.4.e.4.C. Vomiting three (3) or more times, or with signs of dehydration;

15.4.e.4.D. Undiagnosed rash that is accompanied by a behavior change, difficulty in breathing or joint pain, or that is characterized by open sores, blood, red or purple pin-head spots, or bruises not associated with an injury, or lasts more than one (1) day;

15.4.e.4.E. Mouth sores with drooling;

15.4.e.4.F. Infestation, such as scabies or head lice;

15.4.e.4.G. Abdominal pain that is persistent, or intermittent with other signs such as a fever;

15.4.e.4.H. Difficulty in breathing; or

15.4.e.4.I. Lethargy such that the child does not play; and

15.4.e.5. When a child has any of the following diagnosed conditions;

15.4.e.5.A. Diarrhea and blood or mucus in the stool;

15.4.e.5.B. Contagious signs of pertussis, measles, mumps, chicken pox, rubella or diphtheria;

15.4.e.5.C. Streptococcal infection until treated with antibiotics for twenty-four (24) hours;

15.4.e.5.D. Pinkeye with yellow or white discharge;

15.4.e.5.E. Untreated tuberculosis; or

15.4.e.5.F. Other conditions as determined by a licensed health care provider.

15.4.f. When excluding a child to prevent transmission of illness or readmitting a child who has been excluded, the center shall abide by the following guidelines:

15.4.f.1. During the course of an identified outbreak of any communicable illness, the center shall exclude the child if a licensed heath care provider determines that the child is contributing to the transmission of the illness;

15.4.f.2. When a child has been diagnosed with a vaccine-preventable communicable disease, a center shall exclude the child who has not been immunized against the disease until a licensed health care provider determines that a risk of disease transmission has passed;

15.4.f.3. When a licensed health care provider excludes a child because of a communicable illness, a center shall readmit the child only after the child's parent provides a signed statement from a licensed health care provider that the risk of transmission is no longer present and the child is well enough to participate in center activities; and

15.4.f.4. After receiving a signed statement from a licensed health care provider that the child poses no health risk to the children at the center, the center may permit the child to remain at the center.

15.4.g. Guidelines for handling reportable diseases introduced in a center include that:

15.4.g.1. A center shall report to the local health department the introduction of a diagnosed reportable disease as listed in Appendix 78-1 B of this rule, including, chickenpox, diphtheria, giardia lambia, hepatitis A, mumps, meningitis, pertussis (whooping cough), rheumatic fever, rubella (German measles), rubeola (measles), salmonella, shigella, and tuberculosis;

15.4.g.2. A center shall inform the parent of each child immediately of the presence of the disease and the need to contact a licensed health care provider for further information; and

15.4.g.3. A center shall complete a serious occurrence report as required under this rule.

15.4.h. Medication Administration. With advice from a licensed health care provider, a center shall develop, implement and maintain health policies and procedures that include the following procedures for the administration of medication:

15.4.h.1. A center shall only administer medication with written permission from the child's parent, and with a prescription or a written order from a licensed health care provider except as provided for in Section 15.4.h.7.;

15.4.h.2. The center shall secure instructions from the child's parent for each medication to be administered. The center may not accept instructions that indicate to administer the medication on an as needed basis unless the order is accompanied by a medical treatment plan written by the child's licensed health care provider which describes the as needed condition. All medication instruction must be legibly written, signed by the parent, attached to the medication log and shall include:

15.4.h.2.A. The child's first and last name;

15.4.h.2.B. The name of the medication to be given;

15.4.h.2.C. The reason the medication is being given; and

15.4.h.2.D. Directions for the administration of the medication including the specific dosage, specific frequency or time to be given, route to be given and the time of the last dosage administered by the parent.

15.4.h.3. A center may secure a parent's written permission to apply sun screen supplied by the center provided the center gives the parent information, in writing, about the product prior to its application.

15.4.h.4. A center shall store medication in its original packaging and shall place the medication in a locked cabinet or container that is inaccessible to children and can be opened only by key or combination. The container or cabinet shall be away from food, and refrigerated or unrefrigerated according to instructions on the prescription, order or label. Sunscreen, diaper ointment and emergency medication are exempt from being stored in a locked cabinet or container, but shall remain inaccessible to children.

15.4.h.4.A. Refrigerated medication shall be in a container which cannot leak.

15.4.h.4.B. If the container used is plastic, it shall be a hard molded plastic container. Plastic bags are prohibited for storage.

15.4.h.4.C. Medication for staff shall be stored separately from children's medication.

15.4.h.5. A center shall ensure that medication is only administered by designated qualified staff members who have passed the approved training in medication administration.

15.4.h.6. A center shall ensure that prescription medication is only administered when the prescriptive medicine bottle or package has the original pharmacy label showing the prescription number, name of the medication, date the prescription was filled, the licensed health care provider's name, the child's first and last names, specific, legible directions for administration and storage, and the expiration date.

15.4.h.7. A center shall ensure that non-prescription medication is only administered when the following criteria are met:

15.4.h.7.A. The center administers oral non prescription medication for no more than three (3) consecutive days within a thirty (30) day period without written instruction from a licensed health care provider;

15.4.h.7.B. The center applies non prescription topical products (ointments, creams, or lotions) for no more than five (5) consecutive days within a thirty (30) day period without written instruction from a licensed health care provider. Sunscreens, diaper ointments or lip balms used for preventative purpose are excluded from this requirement;

15.4.h.7.C. The original non prescriptive medicine bottle or package has a label with the child's first and last names written by the parent, specific, legible directions for administration including the appropriate dosage based on weight or age, directions for storage, and verification that the medicine will not expire during the time to be used;

15.4.h.7.D. Medication to reduce fever does not contain aspirin or any product containing aspirin listed as an ingredient such as sodium bicarbonate (Alka-Seltzer®) or bismuth subsalicylate (Pepto-Bismol®);

15.4.h.7.E. Medication for teething pain that contains benzocaine is not to be used without instruction from the child's health care provider;

15.4.h.7.F. Any topical containing diphenhydramine hydrochloride (Benydryl®) shall not be applied without written instruction from a licensed health care provider;

15.4.h.7.G. That the medication shall not be administered in a manner inconsistent with the manufacturer's recommendations without written instructions from the child's licensed health care provider;

15.4.h.7.H. The center shall ensure that a staff member assists as needed in the application of sunscreen or lip balm for a child up to school age. The sunscreen shall be applied in accordance with the product labeling guidelines; and

15.4.h.7.I. The center shall permit a school age child to apply his or her own sun screen or lip balm under the direct supervision of a staff member.

15.4.h.8. A center shall ensure that before administering medication when the directions are not legible, the parent checks with the child's licensed health care provider or, if applicable, the pharmacy that filled the prescription;

15.4.h.9. When a child no longer needs the medication or its expiration date passes, a center shall return the medication to the parent, and document the date of its return. A center shall not administer medication after its expiration date;

15.4.h.10. A center shall ensure that records of medication administration are individual and kept:

15.4.h.10.A. In a medication log that is cumulative; and

15.4.h.10.B. Completed in ink by the staff member who administers the medication, and includes the child's name, the name of the medication, the date and time of the administration, the dosage and route of the medication, the child's reaction, if any, and the name of the staff member who administered it.

15.4.h.10.C. Sunscreen and lip balm application are not required to be logged.

15.4.h.11. A center shall ensure when a documentation error is made that a single line is drawn through the error with the staff person correcting the error initialing it.

15.4.h.12. A center shall ensure if and when a medication error is made, the staff member who makes the error:

15.4.h.12.A. Informs the center director and the parent of the child affected by the error;

15.4.h.12.B. Completes a serious occurrence report as required under this rule; and

15.4.h.12.C. Observes the child for any reaction to the error. If the child shows a reaction, contact 911, and in the case of an overdose, contacts the poison control center. If 911 service is not available to the area then emergency services shall be contacted.

15.4.h.13. A center may permit a child to self-administer his or her own medication under the following circumstances:

15.4.h.13.A. With written permission from the child's parent and licensed health care provider and in accordance with procedures established in this rule, a child may self-administer asthma medication, emergency allergy medication or other similar emergency medication;

15.4.h.13.B. With written permission from the child's parent and licensed health care provider, the center may establish procedures to permit the child, under supervision, to self-administer insulin or other injected medication that the child requires; and

15.4.h.13.C. When the child self-administers medication, qualified staff members shall keep a written record of the administration in the medication log.

15.4.h.14. A center shall have a procedure that requires medication logs be reviewed on a daily basis to ensure that medicine is being properly administered and documented.

15.4.h.15. A center shall post the "Seven Rights of Medication Administration" near to the storage of medication.

15.5. Dental Health.

15.5.a. A center shall develop a dental health plan that provides for staff training in oral health concepts and child oral health education, appropriate to the age of the children at the center.

15.5.b. Staff members shall not give a child a bottle, a sipping cup of milk or juice as a pacifier.

15.5.c. For a child twenty-five (25) months and over, a center shall ensure that the child:

15.5.c.1. Has a personally labeled toothbrush with bristles in good condition, that is stored in a sanitary manner so that it does not touch another toothbrush and that its bristles are exposed to the air to dry;

15.5.c.2. Does not share his or her toothbrush with other children; and

15.5.c.3. Uses toothpaste that is dispensed in a sanitary manner.

§78-1-16. Nutrition and Food.

16.1. A center shall have a nutrition program that provides children with meals and snacks that are consistent with the United States Department of Agriculture's (USDA) Child and Adult Care Food Program (CACFP), Meal and Snack Patterns (Appendix 78-1-C).

16.2. Special Dietary Needs. When planning meals and snacks a center shall:

16.2.a. Consider information provided by the parent or a licensed health care provider about a child's special dietary needs, including special needs because of a medical condition, allergy or religious prohibition;

16.2.b. Obtain a written care plan from the parent stating any foods to be avoided, any foods to be substituted and any need for special utensils; and

16.2.c. Keep information about the child's special dietary needs in a location that is accessible to staff who prepare and serve food, while protecting a child's right to confidentiality.

16.3. Frequency of Meals. A center shall offer food at intervals no more than three (3) hours apart and ensure that no more than four (4) hours elapse between meals and snacks for any child. A center shall provide meals and snacks according to the following requirements:

16.3.a. A center that is open from morning through afternoon shall serve a morning snack or breakfast, lunch and afternoon snacks;

16.3.b. A center that provides care before seven (7) o'clock in the morning shall serve breakfast; and

16.3.c. A center that provides care to the child whose planned attendance extends until after seven (7) o'clock in the evening shall serve supper;

16.4. Requirements for Milk and Juice.

16.4.a. When serving milk, a center shall serve the child only pasteurized, inspected, Grade A approved milk to drink, and shall not use powdered milk except for cooking.

16.4.b. When serving juice, a center shall serve the child only commercially pasteurized, one hundred (100) percent, vitamin C fortified fruit juice to drink.

16.5. Food Service. A center shall serve food according to the following:

16.5.a. A center shall provide a child with age-appropriate and developmentally suitable eating utensils;

16.5.b. Staff members shall encourage a child to eat the food served, but shall not coerce or force feed a child;

16.5.c. Staff members shall eat or participate in meals and snacks with a child twenty-five (25) months of age and over and shall model healthy eating habits;

16.5.d. The meals shall be served in a setting that encourages socialization, where the children and staff members are seated when eating, and staff members provide supervision and model positive eating behaviors and social interactions~~.~~;

16.5.e. Food shall not be served directly on the table or chair tray; and

16.5.f. The center shall give children time to eat their food without rushing.

16.6. Menus.

16.6.a. A center shall post menus for all food served a minimum of one (1) week in advance for the parent to see.

16.6.b. A center shall follow written menus as planned and write any changes on the posted menus.

16.6.c. A center shall date menus and keep them on file for a minimum of two (2) months.

16.7. Food Safety. A center shall ensure that:

16.7.a. Food preparation areas, service areas, storage areas, and equipment and utensils are clean and in good repair;

16.7.b. An off-site supplier of meals or snacks has a Food Service Permit;

16.7.c. The Bureau for Public Health has approved the method of transporting and distributing the food not prepared at the center or which is served off-site;

16.7.d. Leftover portions of food that have been served are discarded;

16.7.e. Prior to serving milk to a child, except when its original container is a single service container, staff pours the milk from the original container into a clean, sanitized and labeled bottle or a disposable, sterile bottle liner, or into a sanitized glass or single-service cup and shall not pour the milk back to its original container or store it for later use;

16.7.f. Ice for consumption is made with drinking water; and

16.7.g. Ice used for cooling is not consumed by the child, and water from melted ice used for cooling does not contaminate food to be served.

16.8. Additional Nutrition and Feeding Requirements for a Child Twelve (12) Months of Age and Under.

16.8.a. The center shall feed solid foods and fruit juices to a child four (4) months of age and younger only upon receipt of and in accordance with a written plan of care signed by the child's licensed health care provider.

16.8.b. A center caring for a child twelve (12) months of age and under shall feed the child according to a plan developed in consultation with the parent and may include advice from the child's licensed health care provider. Due to the differences in development and nutritional needs of an infant, a center is not required to provide baby food to an infant not yet eating table food, but must ensure that the food provided by the parent meets nutritional guidelines as found in Appendix 78-1-C. The option to have parents supply the baby food must meet the requirements of sub-section 16.9 of this rule.

16.8.c. When a child is being breast fed, a center shall ensure that the child's plan makes a provision for the mother to provide sufficient portions of breast milk or an alternative to satisfy the child throughout the day, and a center shall not give commercial formula to the child receiving breast milk without written permission from the mother.

16.8.d. For the child between six (6) months and three (3) years of age a center shall not replace formula or breast milk with water.

16.8.e. Until a child is able to hold a bottle securely, a staff member shall hold the child while bottle feeding. When a child is no longer being held for feeding, the staff shall ensure that seating is age-appropriate and shall not prop bottles or allow the child to carry a bottle while moving about or walking.

16.8.f. For food safety a center shall:

16.8.f.1. Store perishable food, formula and expressed breast milk in the refrigerator;

16.8.f.2. Have the parent clearly label each bottle of formula with the child's name, contents and the date received;

16.8.f.3. Have the parent clearly label each bottle of breast milk with the child's name, date expressed, date frozen if applicable, and date received;

16.8.f.4. Cap bottles of formula or breast milk during storage;

16.8.f.5. Ensure each staff person follows the hand washing requirement found in Section 17 of this rule prior to preparing a bottle;

16.8.f.6. Thaw frozen breast milk in the refrigerator or under cold running water. The center must not refreeze breast milk;

16.8.f.7. Not use a microwave oven to warm a bottle of formula or breast milk;

16.8.f.8. Not give any formula or breast milk that is not labeled to a child;

16.8.f.9. Discard any unused breast milk after each feeding;

16.8.f.10. Clean and sanitize bottles, bottle caps, and nipples by washing in a dishwasher and storing them in a sanitary manner, or by boiling them for five (5) minutes immediately before filling them; and

16.8.f.11. Handle baby food in the following manner:

16.8.f.11.A. A center shall not accept previously opened baby food containers;

16.8.f.11.B. A center shall remove commercially packaged baby food from its container and serve it in a clean bowl or cup;

16.8.f.11.C. A center shall not place solid food in a bottle or feeder apparatus and shall use a spoon to feed solid food in a sanitary manner; and

16.8.f.11.D. A center shall discard leftover food that has come into contact with the feeding spoon;

16.8.f.12. A center shall handle breast milk and formula in the following manner:

16.8.f.12.A. A center shall store breast milk in hard plastic or glass bottles with tight lids only;

16.8.f.12.B. A center shall remove breast milk and bottles of formula from the refrigerator immediately before using only;

16.8.f.12.C. A center shall discard breast milk or formula when it remains at a temperature higher than forty-one (41) degrees Fahrenheit for more than one (1) hour or within thirty (30) minutes after a child has finished feeding; and

16.8.f.12.D. A center shall use fresh refrigerated breast milk within forty-eight (48) hours of receipt, breast milk that has been frozen and properly thawed within twenty-four (24) hours of receipt and frozen breast milk within two (2) weeks of receipt if it is reported that is has been stored in the back of a freezer.

16.8.g. In order to provide sufficient amounts of safe drinking water, the center shall ensure that:

16.8.g.1. Drinking water is available to children and staff members and is freely accessible at all times.

16.8.g.2. A single service drinking cup is discarded after one use, and a non-disposable cup or glass is washed and sanitized after each use.

16.9. A center must offer a nutrition program, but may choose to allow a child to bring meals and snacks to the center if:

16.9.a. The center has written policies that address:

16.9.a.1. Providing parents and staff with nutritional guidelines in this rule;

16.9.a.2. Providing to parents and staff guidelines on the proper preparation and storage of food so that foods do not present a cross-contamination threat;

16.9.a.3. Providing to parents and staff a list of foods the center will not permit, including known food allergens to other children;

16.9.a.4. An explanation to parents of how the center will address the issue if a child does not bring meals or snacks, or if the meals or snacks the child does bring are not within the nutritional guidelines or guidelines provided by the center;

16.9.a.5. That the food prepared from an unapproved source is for consumption by the child and not to be shared with other children or the group.

16.9.b. The center has safe storage and refrigeration of the food as needed. Storage must be approved by the Health Department;

16.9.c. Each child's meal or snack is clearly labeled with the child's first and last names and the date it was brought to the center;

16.9.d. No additional food preparation is required by the center;

16.9.e. The center provides a meal or snack when the parent fails to provide a meal or snack from home;

16.9.f. The center includes children with food allergies in the group during meal or snack time and closely supervises all children under school age during meal or snack time to prevent the cross-contamination of food or accidental ingestion of a food allergen; and

16.9.g. The center has milk available at meal times in accordance with meal patterns described in Appendix 78-1-C of this rule.

§78-1-17. Sanitation.

17.1. Personal Hygiene. All individuals on the center premises or participating in center activities shall practice good personal hygiene, including:

17.1.a. Hand Washing.

17.1.a.1. Staff members shall wash their hands before starting work; and

17.1.a.2. Staff members and children shall wash their hands with soap and warm, running water for at least twenty (20) seconds:

17.1.a.2.A. When hands are contaminated with body fluids;

17.1.a.2.B. Before preparing, handling or serving food, or setting the table;

17.1.a.2.C. After toileting, handling diapers or assisting a child with toilet use;

17.1.a.2.D. Before and after eating meals or snacks;

17.1.a.2.E. After handling pets or other animals;

17.1.a.2.F. Before giving medication;

17.1.a.2.G. After playing outdoors;

17.1.a.2.H. After handling garbage; and

17.1.a.2.I. After removing gloves used for any purpose.

17.1.b. Universal Precautions. With the exception of breast milk, staff members shall adopt universal precautions when exposed to blood and body fluids that might contain blood; and

17.1.c. Diapering and Toileting. A center shall ensure that diapering and toilet training follow the guidelines in Appendix 78-1-D of this rule.

17.1.c.1. Toilet Training.

17.1.c.1.A. A center shall discuss with the parent and document in the child's record the toilet-training methods to be used with the child being trained.

17.1.c.1.B. Staff members shall not use any form of punishment in connection with toilet training.

17.1.c.1.C. Staff members shall not force a child to sit on a potty or training chair.

17.1.c.2. Toilet Equipment and Fixtures.

17.1.c.2.A. A center shall disinfect the potty or training chairs after each use; and

17.1.c.2.B. A center shall provide toilet fixtures that are sized so that the child can use them without assistance, and provide step stools, or modified toilet seats that are safe and easily disinfected.

17.2. Physical Facilities.

17.2.a. A center shall keep all areas of the premises and all equipment clean and in a neat and orderly condition at all times.

17.2.b. The center shall ensure that floors, walls and ceiling are of easily cleanable material.

17.2.c. The center shall ensure that the floor area immediately adjacent to the diaper changing table has a moisture-resistant, non-absorbent surface extending three (3) feet from the base of the table on all sides, except when one side of the table is against a wall.

17.2.d. The center shall have a hand-washing sink located in the immediate area of the diaper-changing space. Centers licensed prior to the effective date of this rule are not out of compliance with this requirement if the existing diaper-changing space does not include a hand-washing sink in the immediate area. Upon the effective date of this rule, the Department shall not approve an additional diaper-changing space without a sink in the immediate area.

§78-1-18. Animals.

18.1. A center shall ensure that animals on the premises show no signs of disease or illness.

18.2. The center shall maintain documentation of current vaccinations on all dogs and cats.

18.3. A center shall not have on the premises ferrets, birds, reptiles, including snakes, lizards and turtles, or any wild or dangerous animals.

18.4. A center shall ensure that a staff member is always present when a child is with an animal.

18.5. A center shall inform the child's parent in advance of the presence of animals at the center.

§78-1-19. Safety and Emergency Operating Procedures.

19.1. A center shall develop, implement and maintain attendance policies and procedures to ensure that it has a current and updated written record of the first and last name of each child who is participating in center activities, onsite and offsite, and who is being transported in a vehicle provided by the center.

19.2. Daily Attendance Sign-In and Sign Out.

19.2.a. A center shall ensure that the responsible person bringing the child to the center signs the child in as the child arrives and that the responsible person picking up the child signs the child out as the child departs the center.

19.2.b. A center shall require the following sign-in and sign-out information:

19.2.b.1. Arrival time including the date and time;

19.2.b.2. Departure time including the date and time;

19.2.b.3. The name and signature of the responsible person who drops off the child; and

19.2.b.4. The name and signature of the responsible person who picks up the child.

19.2.c. A center shall have an attendance procedure for notifying the parent when a school-age child does not arrive as scheduled.

19.3. Transportation Log.

19.3.a. A center shall provide a passenger log to be kept by the driver of the vehicle, the designated staff member, or the volunteer riding in the vehicle that shall include the first and last names of each child boarding the vehicle. There shall be a notation on the log each time a child boards the vehicle or departs the vehicle.

19.3.b. Immediately upon unloading the last child from a vehicle, or before parking the vehicle, the driver or the designated staff member shall physically search the vehicle to ensure that all children have been unloaded. The transportation log shall then be reviewed either by the driver or the designated staff member to check that the information is correct.

19.3.c. The driver or the designated staff member shall deliver the transportation log to the person responsible for maintaining attendance records.

19.4. Daily Roster.

19.4.a. A center shall prepare a written, daily roster that includes the first and last names of each child in each group of children, the name of the staff member responsible for the group, and the space designated for use by the group both at the center and at off-site locations used during field trips.

19.4.b. Periodically throughout the day, the staff member responsible for each group of children shall check the daily roster to ensure that all children are present or accounted for.

19.4.c. A center shall keep each daily roster in a designated location where it is readily available in case of emergencies and can be used to confirm attendance following an evacuation from the premises or upon returning from a field trip.

19.4.d. A center shall ensure that its attendance procedures include accounting for a child at all times and taking action when a child is lost on or off the premises.

19.5. Emergency File. A center shall develop and maintain an emergency file with information for each enrolled child that is accessible to all staff members, including at off-site activities.

19.6. Emergency Disaster Plan. A center shall develop, implement and maintain an emergency and disaster plan which addresses:

19.6.a. Medical and non medical emergencies, including situations that could pose a hazard to staff and children, such as a fire, storm, flood, chemical spill, power failure, bomb threat, persons coming onto the premises whose health or behavior may be harmful to a child or staff member or kidnapping;

19.6.b. Evacuation from the center in the event of an emergency that could cause damage to the center or pose a hazard to the staff and children;

19.6.c. Evacuation from a vehicle used to transport children;

19.6.d. The age and physical and mental abilities of the enrolled children; types of emergencies that are likely to affect the area; the requirements of the State Fire Marshal; and advice from the Red Cross or other health and emergency professionals;

19.6.e. Review of the emergency plans with new staff during orientation and with all staff at least once a year;

19.6.f. The notification of parents of procedures for relocation and reunification during evacuation emergencies and disasters;

19.6.g. Submission of an emergency and disaster evacuation plan to the Director of the Office of Emergency Services in the county where the center is located or any other designated authority with a procedure to submit any changes to that plan by December 31 of each year;

19.6.h. In the case of a medical emergency, identification of the staff responsible for implementing the plan. The plan for a medical emergency shall include:

19.6.h.1. The procedures to be followed;

19.6.h.2. The location of a center's first aid kit and other emergency supplies;

19.6.h.3. The location of the child's emergency information;

19.6.h.4. The name, address and telephone number of a health professional or facility available to provide medical consultation to the center;

19.6.h.5. The name, address, telephone number and location of the emergency facility to be used when a center cannot reach the child's parent or licensed health care provider, or when transporting the ill or injured child to the preferred hospital could result in a serious delay in obtaining medical attention;

19.6.h.6. Identification of a means of transportation that is always available in case of an emergency, and telephone numbers for an ambulance or other transportation that might be required; and

19.6.h.7. Other emergency telephone numbers as required in this rule; and

19.6.i. For a non medical emergency that identifies staff members responsible for implementing the plan and includes:

19.6.i.1. The procedures to be followed;

19.6.i.2. The location of the center's first aid kit and other emergency supplies;

19.6.i.3. The location of the child's attendance records and emergency information;

19.6.i.4. The identification of a safe location within a center where a children and staff members can stay until the threat of danger passes;

19.6.i.5. A diagram of the routes to be used by the child and staff members to reach the safe location and a copy of the plan for moving to the safe location that the center shall post by the telephone and in each room of the center;

19.6.i.6. A procedure for notifying the local fire department when a center offers evening or night time care;

19.6.i.7. A procedure for practicing moving to the safe location within a center at least two (2) times a year;

19.6.i.8. A procedure for practicing relocation with staff members two (2) times per year;

19.6.i.9. A procedure for maintaining a written record of the dates and times when the practice sessions are conducted; and

19.6.i.10. A procedure for ensuring that a staff member determines that all of the children attending at the time of the non medical emergency are safe during an emergency or practice.

19.7. Evacuation and Drill Plan.

19.7.a. A center shall have a plan for evacuating the center in an emergency posted by the telephone in each room of the center that identifies staff members responsible for implementing the plan that includes:

19.7.a.1. The procedures to be followed;

19.7.a.2. The location of the child's attendance records and emergency information;

19.7.a.3. A diagram of safe routes by which the child and staff members may exit each area of the center used by the child; and

19.7.a.4. The name and address of a nearby relocation site and the name and address of a more distant relocation site that the center has arranged to use in temporarily relocating during an emergency or disaster, that can accommodate the children and staff until reunification of the children and parents can occur.

19.7.b. A center shall conduct a fire drill at least two (2) times a month during its regular hours of operation, keeping a written record of the dates and times when fire drills are conducted.

19.7.c. When a center offers evening or night time care, a center shall also conduct fire drills during the hours of operation of its evening or night time program at least once a month.

19.7.d. A center shall ensure that a staff member is responsible for determining that all of the children attending at the time of the event have been evacuated safely during an emergency evacuation or practice.

19.8. Evacuation from a Vehicle.

19.8.a. A vehicle evacuation plan shall be posted in each vehicle regularly used by the center to transport a child that includes:

19.8.a.1. The procedures to be followed;

19.8.a.2. The location of the vehicle's first aid kit and other emergency supplies;

19.8.a.3. The location of the vehicle's transportation passenger log and the children's emergency information; and

19.8.a.4. The name and address of the emergency medical facilities closest to the vehicle's route.

19.8.b. When it provides transportation according to a regular schedule, a center shall conduct a vehicle evacuation drill at least two (2) times a year.

19.8.c. A center shall maintain a written record of the dates and times when vehicle evacuation drills are conducted.

19.8.d. A center shall ensure that a staff member is responsible for determining that all of the children have been evacuated safely during an emergency evacuation or practice.

19.9. Staff Responsibility Regarding Medical Emergencies and Evacuation.

19.9.a. For a medical emergency at a center, a center shall develop, implement and maintain procedures for ensuring that staff members:

19.9.a.1. Attend to the injured child with first aid or follow appropriate emergency procedures if the child is experiencing an acute condition, including an asthma attack, seizure, or life-threatening anaphylactic reaction;

19.9.a.2. Notify the parent or other individual designated by the parent to assume responsibility for the child and inform him or her of the child's illness or injury and the center's response; and

19.9.a.3. Complete the required documentation.

19.9.b. For a medical emergency requiring treatment at a medical facility, a center shall provide staff to:

19.9.b.1. Accompany the ill or injured child to the medical facility;

19.9.b.2. Ensure that signed authorization for treatment accompanies the ill or injured child to a medical facility;

19.9.b.3. Notify the parent or other individual designated by the parent to assume responsibility for the child and inform him or her of the child's illness or injury and the center's response;

19.9.b.4. Inform the medical facility that the ill or injured child is being transported for treatment; and

19.9.b.5. Obtain substitute staff, if needed, to provide adequate supervision for the children who remain at the center.

19.9.c. A center shall ensure that staff members are informed of their responsibilities in the event of an evacuation of the premises or a center's vehicle, as required by the center's procedures and notify the Secretary.

19.10. First Aid Kit. A center shall provide a first aid kit for every twenty (20) children that is stored where it is easily accessible to staff members, but out of reach of the children. The location of the first aid kit shall be clearly marked and in view of the staff member. The kit shall be:

19.10.a. Equipped with band aids, a non mercury thermometer, gauze, tape, scissors, tweezers, disposable nonporous gloves, a first aid guide, the telephone number of a poison control center, and pencil and paper. A bottle of clean water shall be stored with or accompany the first aid kit; and

19.10.b. Readily available at all times, including in the outdoor activity area, on all field trips away from the center and in each vehicle provided by the center for the transportation of children.

19.11. Telephone. A center shall provide at least one (1) operable landline telephone that is in the center space, is not a pay station or locked telephone, and is available during the center's hours of operation, or shall provide at least one (1) activated mobile or cellular telephone that remains on-site at all times. Close to the location of each landline telephone or, or in case of a center using a mobile phone, in each administrative space and classroom, a center shall post:

19.11.a. The name, address and telephone number of the center;

19.11.b. A list of emergency numbers, including 911, the fire department, police department, ambulance service, the center's medical consultant and a poison control center;

19.11.c. When a center operates at more than one (1) site, the name and telephone number of the center's principal place of business; and

19.11.d. When a center occupies space it does not own, the name and telephone number of the owner of the building.

19.12. Reporting a Serious Occurrence. A center shall:

19.12.a. Immediately inform the parent or parent's authorized designee when a child is involved in a serious occurrence;

19.12.b. Verbally report the occurrence within twenty-four (24) hours or by the next work day to the Secretary, and before the end of the day, ensure that the staff member in charge prepares and signs a serious occurrence report; and

19.12.c. Complete a report of each serious occurrence ensuring that the report is signed by the staff member completing it and by the child's parent. Copies of the report are to be placed in the child's file and in a separate cumulative file maintained by the center.

§78-1-20. Environmental Safety.

20.1. A center shall take all necessary precautions to ensure an accident-free and smoke-free environment for the children, staff members and visitors to the center.

20.1.a. Smoking and tobacco product use by anyone is prohibited on the premises and everywhere in the presence of children.

20.1.b. Smoking is prohibited anytime in vehicles operated by the center, even in the absence of children.

20.1.c. All tobacco products, lighters and matches shall be kept out of the children's reach and sight.

20.2. Safety of Premises, Furnishings, Equipment and Supplies. A center shall:

20.2.a. Ensure that the premises, furnishings, equipment and supplies are in good repair and present no hazard to the health and safety of the children;

20.2.b. Only use furnishings, equipment and supplies that meet the standards of the Consumer Product Safety Commission (CPSC) and shall not use any product recalled by the CPSC;

20.2.c. Position indoor and outdoor furnishings, equipment and supplies to:

20.2.c.1. Allow a child freedom to participate in center activities;

20.2.c.2. Permit direct access to emergency exits; and

20.2.c.3. Provide clear sight lines for staff supervision;

20.2.d. Ensure that sleeping equipment, including cribs, cots and beds are a minimum of twenty-four (24) inches apart from each other on all sides;

20.2.e. Maintain a temperature not less than sixty-eight (68) degrees Fahrenheit at floor level and not higher than eighty-five (85) degrees Fahrenheit, in all rooms occupied by a child;

20.2.f. Ensure sufficient lighting by:

20.2.f.1. Providing a minimum of fifty (50) foot candles of illumination at floor level, in rooms occupied by a child for program activities;

20.2.f.2. Providing at least thirty (30) foot candles of illumination at floor level in areas not occupied by a child;

20.2.f.3. Providing light for supervision when a child is sleeping; and

20.2.f.4. Provide outdoor lighting at all entrances and exits used by a child when a center operates evening or night time programs.

20.3. Potential Hazards of Premises, Furnishings, Equipment and Supplies.

20.3.a. Firearm Prohibition. A center shall prohibit firearms unless carried by a regulatory or law enforcement professional in the line of duty; and shall prohibit projectile weapons, including pellet or BB guns, darts, cap pistols, bows and arrows, slingshots and paint ball guns.

20.3.b. Hazardous Chemical and Toxic Items. A center shall ensure that:

20.3.b.1. Products containing potentially hazardous chemicals, including identified poisons, medications, certain cleaning supplies, and art supplies, not clearly labeled as "nontoxic," are inaccessible to the

children in a locked cabinet away from food, and when possible, stored in their original containers and never in containers originally designed for food; and

20.3.b.2. For each product containing potentially hazardous chemicals, a center has on file a material safety data sheet, available at the point of purchase or from the manufacturer.

20.3.c. Lead Paint. A center shall seal or remove lead paint from the premises according to current safety standards and at a time when the children are absent during the entire sealing or removal process. The center shall secure approval from the Health Department prior to implementing a plan to deal with lead paint.

20.3.d. Electrical Equipment.

20.3.d.1. Electrical cords. A center shall ensure that each electrical cord is insulated and in good repair.

20.3.d.2. Extension cords and plug-in strips. A center shall not use an electrical extension cord except on a temporary basis, but if using it shall ensure that the cord is in good repair. A center may use an electrical multiple plug-in strip with a circuit breaker in good repair.

20.3.d.3. Electrical Outlet. A center shall ensure that when an electrical outlet within reach of a child younger than school age is not in use, it is protected by a cover.

20.3.d.4. Electrical Appliance. A center shall not locate an electrical appliance in an activity area used by a child except for a brief period when an adult supervises the use of the electrical appliance for a program.

20.3.e. Microwave Oven. If a center uses a microwave oven, the center shall train staff members in the correct use and potential dangers of the oven and post a warning on or near the oven to check the temperature of food heated in the oven before feeding it to a child.

20.3.f. Heating Devices. A center shall provide a shield to protect the children from a hot pipe or radiator and shall not use unvented fuel fire heaters.

20.3.g. Doors. A center shall ensure that:

20.3.g.1. All doors close properly and fire doors are closed at all times; and

20.3.g.2. All clear glass doors are clearly marked at the children's eye level.

20.3.h. Floors. A center shall firmly anchor all floor coverings.

20.3.i. Barriers and Gates. The center shall ensure that:

20.3.i.1. All temporary walls or items being used as physical barriers are firmly anchored or cannot be moved or tipped by a child so that they pose no threat to the safety of the child; and

20.3.i.2. Stairways to which the child has access have appropriate railings and safety gates or other barriers at the top and bottom.

20.3.j. Strings, Cords and Hanging Items.

20.3.j.1. When a child wears a piece of clothing with a drawstring, a center shall:

20.3.j.1.A. Inform the child's parent of the potential risk of strangulation; and

20.3.j.1.B. Ensure that prior to the child's participation in an activity, staff members remove or secure any drawstring that might pose a risk to the child.

20.3.j.2. Pacifiers. A center shall ensure that a pacifier attached to a string or ribbon that is six (6) inches or more in length, is not placed around a child's neck or affixed to the child's clothing.

20.3.j.3. A center shall ensure that a child under school age does not have access to a string or cord that is six (6) inches or more in length and attached to a fixed object, such as a window shade, or access to other hanging items, such as a tablecloth.

20.4. Outdoor Safety.

20.4.a. Barriers and Exits.

20.4.a.1. A center shall ensure that the outdoor activity area for a child under school age:

20.4.a.1.A. Is enclosed on all sides by a natural barrier or secure fence that is at least four (4) feet high with a bottom edge that is less than three and one-half (3 ½) inches from the ground;

20.4.a.1.B. If it has a fence, the fence has no openings greater than three and one-half (3 ½) inches;

20.4.a.1.C. If it has a natural barrier, the barrier has the strength and density to prevent humans and animals from entering or exiting the playground;

20.4.a.1.D. If it is attached to a building, the barrier or fence provides at least two (2) exits from the play area, including one (1) exit that is at a distance from the building; and

20.4.a.1.E. When it has an exit that does not lead directly indoors, that it is protected by a gate equipped with a closure mechanism that is out of the reach of a small child and prevents the child from leaving the play area, but can be easily opened by an adult.

20.4.a.2. A center may use an unenclosed outdoor activity area for school-aged children if it is determined to be hazard-free by the Secretary.

20.4.b. Surfaces for Play Area. A center shall ensure:

20.4.b.1. That the play area has more than one (1) type of surface, including a surface that is suitable for children's wheeled vehicles and pull toys;

20.4.b.2. That the surface of the play area in an equipment use zone complies with the current Consumer Product Safety Commission's publication entitled "Public Playground Safety Handbook", publication # 325, sections 2.4 et seq. and 5.3 et seq. A licensee whose outdoor space was approved prior to the effective date of this rule, who remains in compliance with the previous rule, and who does not undergo renovation or relocation of the outdoor space, has (4)years from the effective date of this rule to comply with the current requirements.

20.4.c. Hazards. A center shall ensure that:

20.4.c.1. The play area is well drained and free of debris;

20.4.c.2. The outdoor environment is clear of hazards and all potential hazards such as heat pumps, air conditioning units, wiring, meters and telephone boxes, are inaccessible to the child;

20.4.c.3. The child is protected from moving vehicles; and

20.4.c.4. When there is reason to believe that exposure to the soil in the outdoor activity area might harm the child, it has on file evidence that the soil does not contain hazardous levels of any toxic chemical or substances.

§78-1-21. Pest Management.

21.1. A center shall document that it has an integrated pest management program as required by the WV Department of Agriculture.

21.2. A center shall provide for insect and rodent control that does not compromise the safety of children.

§78-1-22. Transportation. When providing transportation, a center shall ensure that:

22.1. The vehicle used is currently licensed, inspected, insured, and is equipped with signs and warning lights or alternative warning devices as required by West Virginia Code §17C-12-7a;

22.2. Any vehicle used for transportation that has a capacity that exceeds ten (10) passengers shall be a school bus or multifunction school activity bus equipped with passenger safety restraints appropriate to the children being transported. Provided no school bus shall be operated that has aftermarket installed seat belts without certification from the installer that the school bus seat was seat belt ready prior to the installation and that the bus continues to meet federal safety standards for school buses after the installation;

22.3. The driver holds a current driver's license for the type of vehicle being driven;

22.4. The driver or a qualified staff member ensures that each child is in an approved child safety restraint system appropriate to the age and size of the child;

22.5. The vehicle is equipped with emergency supplies, including a first-aid kit, fire extinguisher, and, if only one adult is in the vehicle, a mobile telephone or two-way radio;

22.6. When the center owns the vehicle, identifying information is placed on the outside of the vehicle, which can be read by a pedestrian or other passing vehicle, that includes the name, address and telephone number of the center; and

22.7. When the center owns the vehicle, a weekly safety check is conducted and recorded. The safety check shall include vehicle tire pressure, headlights, windshield wipers, emergency flashers, brake lights, turn signals, first aid kit, gas gauge, oil and other fluids.

§78-1-23. School-Age Program.

23.1. Centers which operate school-age programs shall comply with previous sections of this rule except as follows:

23.2. Training.

23.2.a. Prior to working with children, staff in a summer recreation camp or day camp shall have:

23.2.a.1. Current CPR certification appropriate to the age of the children in care;

23.2.a.2. Current child first aid training;

23.2.a.3. Training in child abuse recognition and prevention;

23.2.a.4. Approved training in medication administration if applicable;

23.2.a.5. Training in guidance and discipline, behavior management, and conflict resolution related to the age of children in care; and

23.2.a.6. An additional four (4) hours of instructional training related to camp responsibilities.

23.2.b. Summer recreation camp and day camp staff are not required to maintain a WVTCECE credential.

23.2.c. Summer recreation camps and day camps shall have a plan for training late-hires and substitutes who were unable to attend pre-camp training.

23.3. Staff Responsibilities and Qualifications.

23.3.a. In addition to the qualifications stated in Section 9 of this rule, qualified staff members acting as a person in charge in a summer recreation camp or day camp shall:

23.3.a.1. Be at least 21 years of age;

23.3.a.2. Have at least one (1) season of leadership experience in a summer recreation program; and

23.3.a.3. Have knowledge of the camp administrative practices.

23.3.b. Director

23.3.b.1. When the center operates a school-age program only, the director may substitute the early childhood credit hours described in Section 9 of this rule with credit hours in elementary education;

23.3.b.2. The director of a summer recreation camp shall substitute the early childhood credit hours described in Section 9 of this rule with credit hours in recreation or elementary education;

23.3.c. Qualified staff positions may substitute the early childhood credit hours described in Section 9 of this rule with credit hours in elementary education.

23.3.d. Teen aides used in school-age programs shall be at least 16 years of age.

23.4. Supervision of Children in Groups.

23.4.a. In determining and maintaining the staff:child ratio, the school-age program shall not include any staff member who is performing other duties such as cooking, bookkeeping, or any individual with designated responsibility for a special activity except in an emergency situation when staff may be reassigned to supervise the children.

23.4.b. In a summer recreation camp program, a certified lifeguard employed by the center may be used to meet staff:child ratio provided the program is using a pool that is reserved exclusively for the program and at least one other staff person who is not lifeguarding is present to supervise the group.

23.4.c. An individual school-age child may be permitted to go to a non-public rest room unattended if the restroom is within vision of a supervising staff person.

23.4.d. Two or more school-age children going to the same restroom at the same time must be accompanied to the restroom by staff and be within staff hearing at all times.

23.5. Staff interaction, Guidance and Supervision

23.5.a. The school-age program shall group children according to their developmental levels and skill levels taking into account that the physical, emotional, intellectual, and social development of early middle childhood differs from that of older middle childhood and pre-adolescence.

23.5.b. A center shall ensure that staff members in school-age programs have the skills and training to respond to the needs of the older child and recognize that interactions with the school-age child differ significantly from interactions with the younger child. The staff members shall:

23.5.b.1. Be available and responsive to the child;

23.5.b.2. Engage the child in meaningful conversation about events of importance and topics of interest, encouraging the child to share experiences, ideas and emotions;

23.5.b.3. Listen to the child with attention and respect;

23.5.b.4. Help a child develop problem-solving skills by describing problems and encouraging him or her to evaluate the situation;

23.5.b.5. Facilitate learning by guiding, providing positive reinforcement, encouraging efforts and recognizing accomplishments; and

23.5.b.6. Have developmentally appropriate expectations of a child's social behavior.

23.5.c. At all times, staff members shall provide positive guidance that is appropriate to each child's age, understanding and circumstances. Staff members shall:

23.5.c.1. Teach by example;

23.5.c.2. Recognize and encourage acceptable behavior;

23.5.c.3. Make eye contact with the child whenever possible when speaking to the child;

23.5.c.4. Supervise with kindness, understanding and firmness;

23.5.c.5. Set expectations for behavior, define clear limits, set fair and consistent rules and when appropriate, permit the school-age child to participate in the development of rules and procedures;

23.5.c.6. Help a child develop self control to assume responsibility for his or her own actions;

23.5.c.7. State expectations in the positive; and

23.5.c.8. Visually post expectations so that children are encouraged to regulate their own behaviors.

23.5.d. When unacceptable behavior persists with the school-age child, the qualified staff member in accordance with the child's age and developmental level shall:

23.5.d.1. Talk with the child privately and calmly;

23.5.d.2. Help the child to verbalize the expectation that is not being met;

23.5.d.3. Help the child to verbalize the reason for the expectation;

23.5.d.4. Help the child to verbalize acceptable choices and possible solutions; and

23.5.d.5. Help the child to verbalize possible consequences if the unacceptable behavior continues.

23.5.e. When conflict between children becomes physical, staff shall intervene immediately and use positive problem-solving methods.

23.6. Space. When a center operates a summer recreation camp:

23.6.a. The center shall provide at least ten (10) square feet of useable indoor activity space per child inside or provide a covered permanent structure that has the required activity space;

23.6.b. The center shall submit a plan for the Secretary's approval for outdoor activity space to meet the children's outdoor activities requirement and shall use the outdoor space only after receiving the Secretary's written approval.

23.7. Toilets. A summer recreation camp program that receives written approval from the local health department may use a commercial portable toilet and warm water, soap, paper towels, rinse water and a pit or other method for disposing of waste water.

23.8. Program. Programs for school-age children shall:

23.8.a. Meet the goals of the center as established by the statement of purpose;

23.8.b. Be based on knowledge of child development for the school-age child;

23.8.c. Have a schedule for routines that is posted and is predictable and in accordance with Subsection 14.1 of this rule other than the following:

23.8.c.1. Out-of-school time programs shall reflect the time of day and the number of hours that care is provided before school, after school, and on days when school is closed;

23.8.c.2. Out-of-school time programs shall provide activity that transitions the child from home to school in the morning and from school to home in the evenings;

23.8.c.3. Summer recreation camps shall have a schedule that provides for outdoor and/or off-site activity 80% of the time weather permitting;

23.8.d. Have varied and well-planned activities;

23.8.e. Have a qualified staff person verbally communicate the expectations for each activity;

23.8.f. Have activities which are age appropriate, offer challenges and incorporate skill level progression of the school-age child;

23.8.g. Offer options when it is recognized that the skill level is too difficult for the child;

23.8.h. Engage children in decision making and program activity development;

23.8.i. Offer the opportunity for projects that can be completed independently with only guidance from staff;

23.8.j. Offer group projects, group play and interest group involvement;

23.8.k. Offer interest centers such as art, dramatic play, school work, science, nature, music, reading, construction, physical activity;

23.8.l. Include activities within the community such as field trips, community work projects or volunteer activities;

23.8.m. Include diversity within activities;

23.8.n. Offer activities without bias to gender; and

23.8.o. Encourage the development of life skills.

23.9. A center operating a summer recreation camp may allow for an occasional overnight activity. When offering the overnight activity the summer recreation camp shall:

23.9.a. Have a written plan of the activity and its oversight that is kept in an administrative file;

23.9.b. Provide staff with written instructions on the operation of the activity;

23.9.c. Provide parents with written information and any special instructions for the activity;

23.9.d. Ensure that the child's daily nutritional requirements are met;

23.9.e. Ensure there is safe drinking water available;

23.9.f. Provide a mat, cot or bed for each child;

23.9.g. Not have a child in care for more than 24 hours; and

23.9.h. Ensure that no staff member must remain awake for more than 18 hours and that if children are sleeping at least one staff member is awake at all times.

23.10. Nutrition. A center with an out-of-school time program shall serve a snack to the school-age child arriving after school;

23.11. Emergency procedures. A summer recreation camp and day camp shall comply with Section 19 of this rule regarding emergency procedures except as set forth in this subsection:

23.11.a. The camp shall have a procedure for practicing moving to the safe location within the first two (2) days of camp and mid-way through the summer;

23.11.b. The camp shall teach and implement a system that has staff and children taking account of children in the camp and immediately reporting if a child is missing;

23.11.c. A qualified staff member assigned to each group of children shall be responsible for carrying or having immediately available a first aid kit; and

23.11.d. When a center operates a summer recreation camp program or day camp program at a site where a direct-line telephone is not available then the center shall ensure that staff members have access to a working communication device that will allow contact to emergency personnel.

§78-1-24. Enforcement Actions.

The secretary may revoke or make a license provisional, or issue an order of closure to a Child Care Center in accordance with West Virginia Code §§49-2B-11 and -12.

78CSR1

TITLE 78
LEGISLATIVE RULES
DEPARTMENT OF HEALTH AND HUMAN RESOURCES
DIVISION OF HUMAN SERVICES

SERIES 1
CHILD CARE CENTER LICENSING

APPENDICES

78-1 A: EQUIPMENT AND MATERIALS FOR PROGRAM ACTIVITES

78-1 B: REPORTBLE ILLNESSES

78-1 C: NUTRITION – MEAL AND SNACK PATTERNS

78-1 D: DIAPER CHANGING AND TOILET TRAINING

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APPENDIX 78-1 A: EQUIPMENT AND MATERIALS FOR PROGRAM ACTIVITIES

TABLE A: EQUIPMENT AND MATERIALS FOR THE CHILD UP TO 6 MONTHS OF AGE	
Type of Materials	**Types of Supplies and Equipment**
Social and Fantasy	**Non-breakable Mirrors:** well-secured crib and wall mirrors; **Dolls:** soft-bodied or rag dolls; **Stuffed Toys:** washable stuffed toys and play animals; **Puppets:** simple hand puppets of visual and social interest for holding by adults.
Exploration and Mastery of Skills and Language	**Visuals:** materials that provide a focus for the child's eyes; **Grasping Toys:** simple rattles, teething toys, squeeze toys, sturdy cloth toys, disks or keys on a ring, interlocking rings, grasping balls.
Music, Art and Movement	**Musical Instruments:** bell on a handle, wrist or ankle bells, rattles; **Audio-Visual:** adult-operated music boxes, tapes or discs with gently rhythmic songs or lullabies.
Gross Motor	**Large-Movement:** balls to clutch.

TABLE B: EQUIPMENT AND MATERIALS FOR THE CHILD 7 TO 12 MONTHS OF AGE	
Type of Materials	**Types of Supplies and Equipment**
Social and Fantasy	**Non-breakable Mirrors:** well-secured wall mirrors, unbreakable hand mirrors; **Dolls:** soft-bodied or rag dolls; **Stuffed Toys:** washable stuffed toys and play animals, soft rubber or vinyl animals for grasping and exploring; **Puppets:** simple hand puppets of visual and social interest for holding by adults; **Transportation:** simple transportation toys of one piece with wheels or rollers that may make a noise when pushed (for the child who can sit and is mobile).
Exploration and Mastery of Skills and Language	**Grasping Toys:** teething toys, beads on rings, rubber or plastic pop beads, squeeze-squeak toys, sturdy cloth toys, disks or keys on a ring, interlocking rings, grasping balls; **Construction:** light-weight blocks for grasping and stacking; **Puzzles:** simple two- or three-piece fit-together objects used as grasping toys; **Skill-Development:** pop-up boxes, simple activity boxes or cubes, texture pads, simple nesting cups, stacking ring cones, container to empty and fill; **Books:** small picture books of cloth or plastic or cardboard to hold; simple picture books for lap reading.
Music, Art and Movement	**Art and Crafts:** large, nontoxic crayons, large paper taped to a surface; **Musical Instruments:** bell on a handle, wrist or ankle bells, rattles or materials that make a sound when shaken, banging materials that are simple and light-weight; **Audio-Visual Materials:** adult-operated tapes or discs with simple rhymes and songs.
Gross Motor	**Large-Movement:** push and pull toys without rods, such as simple cars on large wheels or rollers; **Balls and Sports:** balls, including clutch and texture balls, chime, flutter and action balls; **Outdoor and Gym:** safe swings sized and designed for infants, low soft or padded climbing platforms for the child who crawls.

TABLE C: EQUIPMENT AND MATERIALS FOR THE CHILD 13 - 24 MONTHS OF AGE	
Type of Materials	**Types of Supplies and Equipment**
Social and Fantasy	**Non-breakable Mirrors:** well-secured unbreakable wall mirrors, unbreakable full-length and hand mirrors; **Dolls:** soft-bodied or washable rubber or vinyl baby dolls (no moving eyes or articulated limbs), simple accessories for care giving (feeding, diapering and sleeping), dolls clothes that are simple and removable, and (from about 18 months) small peg or other people figures that can not be swallowed; **Stuffed Toys:** washable, soft animals with features that are painted, stitched or molded and soft rubber or vinyl animals for exploration and beginning pretend play; **Puppets:** hand puppets for holding by adults and (from about 18 months) small hand puppets sized to fit the child's hand; **Transportation:** simple, light-weight vehicles, with large wheels or rollers, that are light-weight, rounded or molded in appearance and may make a noise when pushed, first trains with one or two cars and a simple or no coupling system but no tracks, and (from about 18 months) more detailed vehicles or trains with simple coupling systems such as wood links, blunt hooks or magnets; **Role-Play:** play telephone, simple housekeeping and work-role equipment, simple doll equipment; **Play Scenes:** (from about 18 months) small people or animal figures with simple supporting materials such as a vehicle or barn, or unit blocks to make familiar scenes.
Exploration and Mastery of Skills and Language	**Grasping Toys:** (the child may be losing interest in small hand-held manipulatives); **Sand and Water:** simple floating objects that are easily grasped in one hand, a small shovel and pail, and (from about 18 months) nesting materials for pouring, funnels, colanders, water activity centers and small sand tools; **Construction:** light blocks made of soft cloth, rubber or rounded plastic, wooden cubes for grasping and stacking (15 – 25 pieces) and (from about 18 months) unit blocks (20 – 40 pieces), large plastic bricks of the press together type; **Puzzles:** simple pre-puzzles or form boards in familiar shapes (2-3 pieces) and (from about 18 months) fit-in puzzles with very firmly attached knobs (3-5 pieces); **Skill-Development:** pop-up boxes that operate easily, simple activity boxes or cubes with doors, lids or switches, simple nesting cups and stacking materials, and (from about 18 months) activity boxes with more complex mechanisms such as a turning knob or dial or simple key, simple lock boxes, more complex nesting materials, objects in closed containers that may be opened, stacking materials (4-5 pieces), cylinder blocks, pegboards with a few large pegs, simple matching and lotto materials; **Books:** picture books made of cloth, plastic or cardboard, simple picture and rhyme book with repetition for lap reading, and (from about 18 months) touch-me or tactile books.
Music, Art and Movement	**Art and Crafts:** a few large, nontoxic crayons and large paper taped to a surface; **Musical Instruments:** rhythm instruments operated by shaking (bell, rattles) and (from about 18 months) instruments for banging (cymbals, drums); **Audio-Visual Materials:** adult-operated tapes or discs, music with simple repeating rhythms, rhymes and songs, and (from about 14 months) music to "dance" (bounce) to, and (from about 18 months) simple point-to and finger-play games and songs.

Gross Motor	**Large-Movement – Push and Pull Toys:** push toys with rods with handles on the ends, toys to push along the floor, including simple cars or animals on large wheels or rollers, and (from about 18 months) simple doll carriages and wagons and push and pull toys filled with multiple objects; **Balls and Sports:** soft, light-weight balls especially balls with interesting audio or visual effects, larger balls including balls the size of beach balls, and (from about 18 months) balls for beginning throwing and kicking; **Ride-On Equipment:** stable ride-ons propelled by pushing with the feet, ride-ons with storage bins; **Outdoor and Gym:** climbing platforms that are low, sort or padded, tunnels for climbing through, baby swings made of energy-absorbing materials with seats curved or body shaped and a front closing, and (from about 18 months) low toddler stairs with handrails.
TABLE D: EQUIPMENT AND MATERIALS FOR THE CHILD 24 - 36 MONTHS OF AGE	
Type of Materials	**Types of Supplies and Equipment**
Social and Fantasy	**Non-breakable Mirrors:** well-secured unbreakable wall mirrors, unbreakable hand mirrors; **Dolls:** soft-bodied or washable rubber or vinyl baby dolls, simple accessories for care giving (feeding, diapering and sleeping), dolls clothes that are simple and removable, small peg or other people figures for fantasy scenes; **Stuffed Toys:** soft rubber, wood or vinyl animals for exploration and pretend play, including mother and baby animals; **Puppets:** small hand puppets sized to fit the child's hand and representing familiar human and animal figures and community diversity; **Transportation:** small cars and vehicles to use with unit blocks; larger vehicles for pushing and fantasy play, large wood trucks to ride on, simple trains with coupling systems but no tracks; **Role-Play:** dress-up materials, housekeeping equipment, simple doll equipment; **Play Scenes:** small people or animal figures with simple supporting materials such as a vehicle or barn, or unit blocks to make familiar scenes.
Exploration and Mastery of Skills and Language	**Sand and Water:** people, animals and vehicles for fantasy play, small containers for pouring, small tools such as a shovel or scoop; **Construction:** wooden unit blocks, large plastic bricks, large nuts and bolts; **Puzzles:** 4-5 pieces fit-in puzzles (from 24 months), and (from 30 months) 6-12 pieces fit-in puzzles; **Skill-Development:** 5-10 pieces to nest or stack, simple lock boxes, hidden-object pop-up boxes, safe pounding/hammering toys, cylinder blocks, shape sorters, matching materials, color or picture dominoes, feel bags or boxes or smell jars; **Books:** sturdy books with heavy paper or cardboard pages, tactile or touch-me, pop-up or hidden picture and dressing books; **Pattern-Making:** peg-boards with large pegs, color cubes, magnetic boards with forms; **Dressing, Lacing, Stringing:** large beads, cards and frames.
Music, Art and Movement	**Art and Crafts:** large, nontoxic crayons and markers, adjustable easel, large paint brushes, nontoxic paint and finger paint; large paper, colored construction paper, blunt-ended scissors, chalkboard and large chalk; **Musical Instruments:** rhythm instruments operated by shaking (bell, rattles) or banging (cymbals, drums) and more complex instruments (tambourine, sand blocks, triangle, rhythm sticks); **Audio-Visual Materials:** adult-operated tapes or discs, music with repeating rhythms for rhythm instruments, music to "dance" (bounce) to, simple point-to and finger-play games and songs, short films and videos of familiar objects and activities.
Gross Motor	**Large-Movement – Push and Pull Toys:** simple doll carriages and wagons, push toys that look like adult equipment; **Balls and Sports:** balls of all sizes, especially balls for kicking and throwing; **Ride-On Equipment:** stable ride-ons propelled by pushing with

	the feet, bouncing or rocking ride-ons, and (as the child nears 36 months) small tricycles; **Outdoor and Gym:** tunnels, appropriately sized and safe swings, low climbing structures and slides.

TABLE E: EQUIPMENT AND MATERIALS FOR THE CHILD 36-72 MONTHS OF AGE	
Type of Materials	**Types of Supplies and Equipment**
Social and Fantasy	**Mirrors:** full-length mirrors, unbreakable hand mirrors; **Dolls:** washable rubber or vinyl baby dolls and (for the child over 60 months), child-proportioned dolls with culturally relevant features and skin tones, accessories for care giving (feeding, diapering and sleeping), dolls clothes that are simple and removable, small peg or other people figures for fantasy scenes; **Stuffed Toys:** rubber, wood or vinyl animals for pretend play and to provide replicas of real domestic and wild animals for learning; **Puppets:** small hand or arm or finger puppets sized to fit the child's hand and representing familiar human and animal figures and community diversity, simple puppet theater; **Transportation:** cars and vehicles to use with unit blocks; larger vehicles with simple working parts for pushing and fantasy play, large wood trucks to ride on, small trains with magnetic or hook connections and simple wood tracks; **Role-Play:** detailed and culturally-relevant dress-up materials and props, housekeeping equipment, doll equipment; **Play Scenes:** small people or animal figures with simple supporting materials such as a vehicle or road sign or barn, to use with blocks or other materials to make familiar scenes.
Exploration and Mastery of Skills and Language	**Sand and Water:** people, animals and vehicles for fantasy play, small containers for pouring or measuring, large and small sand tools, and (after 48 months) sand molds and a water pump; **Construction:** wooden unit blocks, large hollow blocks, plastic bricks, and (from 48 months) most types of interlocking blocks, except metal or very small blocks; **Puzzles:** (at 36 months) fit-in or framed – puzzles up to 30 pieces; (at 48 months), 20-30 pieces; (at 60 months) up to 50 pieces; simple jig-saw puzzles – 10-25 pieces; number and letter puzzles, puzzle clocks; **Skill-Development:** materials for matching and sorting and ordering, geometric concept materials, number materials that are simple and concrete, measuring materials, simple mechanical devices such as gears and levers, science materials, natural materials to sort, plants and animals to care for, printmaking materials, beginning computer software; **Books:** picture books with simple stories and rhymes, complex pop-up books, age-appropriate stories; **Pattern-Making:** peg-boards with smaller pegs, color cubes, magnetic boards with forms, and (from 48 months) a variety of beads for stringing, mosaic books, felt boards, and (by 60 months) block printing materials; **Dressing, Lacing, Stringing:** cards and frames for lacing and sewing and (from 60 months) beginning weaving materials; **Games:** dominoes based on color or picture, simple matching and lotto games, bingo, and (from 48 months) simple card games and games requiring fine motor coordination, first board games based on chance not strategy, and (from 60 months) dominoes based on number and bingo or lotto based on letter or number matching.
Music, Art and Movement	**Art and Crafts:** large, nontoxic crayons and markers in many colors, adjustable easel, paint brushes of various sizes, nontoxic paint and finger paint; large paper, colored construction paper, easy-to-use-round-ended scissors, chalkboard and large chalk, paste and nontoxic glue, collage materials, clay and dough and tools, and (from 48 months) workbench and hammer, and (from 60 months) smaller crayons and markers, watercolor paints and simple sewing forms with blunt needles; **Musical Instruments:** all rhythm instruments, blowing instruments (for one-child use only) **Audio-Visual Materials:** live or recorded music for singing, movement or use with rhythm instruments, adult-operated tapes or discs with songs, rhymes and stories for listening, short films and videos.
Gross Motor	**Large-Movement – Push and Pull Toys:** small wagons and wheelbarrows, push toys that look like adult equipment, and (from 60 months) full-sized wagons and sweepers that really work; **Balls and Sports:** balls of all sizes, especially balls for kicking and throwing, and (from 48 months) lightweight softballs and bats, and (from 60 months) jump rope and a

	lightweight flying disc; **Ride-On Equipment:** tricycles sized to the child, three and four-wheeled pedal toys, vehicles with a steering mechanism, full size rocking or bouncing "horse," ride-ons that several children can use together, and (from 48 months) low-slung tricycles; **Outdoor and Gym:** stationary outdoor climbing equipment, appropriately sized and safe swings, and (from 48 months) slides with side rails and ladders and ropes or hanging bars and rings on a swing or climbing equipment and outdoor building materials.

TABLE F: EQUIPMENT AND MATERIALS FOR THE CHILD 6-8 YEARS OF AGE	
Type of Materials	**Types of Supplies and Equipment**
Social and Fantasy	**Mirrors:** mirrors that adults would use, unbreakable hand mirrors; **Dolls:** washable rubber or vinyl baby dolls with culturally relevant features and skin tones and accessories for care giving (feeding, diapering and sleeping), small peg or other people figures for fantasy scenes; **Stuffed Toys:** realistic rubber, wood or vinyl animals to incorporate into scenes and models or show characteristics for learning; **Puppets:** puppets that represent familiar and fantasy figures for acting out stories, simple puppet theater; **Transportation:** generic small models of cars and vehicles, construction or workbench materials to make models of forms of transportation; **Role-Play:** materials for creating and practicing real-life activities and letter-creating materials; **Play Scenes:** small people or animal figures with supporting materials to create fantasy scenes or models related to curriculum themes.
Exploration and Mastery of Skills and Language	**Construction:** large number of varied materials for detailed construction and for creating models (including metal parts and nuts and bolts); **Puzzles:** three-dimensional puzzles, and jig-saw puzzles with 50 to 100 pieces; **Skill-Development:** materials for making books, math manipulatives and fraction and geometrical materials, measuring materials, science materials, natural materials to examine and classify, plants and animals to study and care for, computer programs for language arts and books at a wide variety of difficulty levels for children to read, story books for reading aloud, books made by the children; **Books:** picture books with simple stories and rhymes, complex pop-up books, age-appropriate stories; **Pattern-Making:** mosaic tiles, geometric puzzles, art and craft materials for creating permanent designs; **Dressing, Lacing, Stringing:** bead stringing, braiding, weaving, spool-knitting and sewing materials; **Games:** simple card and board games, games based on words, reading and spelling, memory, and numbers and counting (dominoes, Pachisi) and beginning strategy games (checker, Chinese checkers).
Music, Art and Movement	**Art and Crafts:** a large variety of materials – crayons, markers, colored pencils, art chalks and pastels – in may colors, paint brushes of various sizes, a variety of paints including water colors, a variety of art papers for drawing and tracing and painting, regular scissors, paste and nontoxic glue, collage materials, clay that hardens, tools, more complex printing equipment, craft materials – simple looms, leather for sewing and braiding, papier-mache, plaster of paris, beads for jewelry- and a workbench with tools and wood for projects; **Musical Instruments:** a wide range of real instruments **Audio-Visual Materials:** live or recorded music for singing, movement or use with rhythm instruments, adult-operated tapes or discs with songs, rhymes and stories for listening or for the child's independent use.
Gross Motor	**Balls and Sports:** youth or standard-size balls and equipment for beginning team play, materials for target activities; **Ride-On Equipment:** (riding bicycles is no longer considered a center activity); **Outdoor and Gym:** complex climbing structures including ropes, ladders, hanging bars and rings.

Source: Adapted from Martha B. Bronson, *The Right Stuff for Children Birth to 8: Selecting Play Materials to Support Development* (Washington, D.C.: National Association for the Education of Young Children, 1995.)

APPENDIX 78-1 B: REPORTABLE ILLNESSES *

Reporting of the following communicable diseases* is required by State Law (West Virginia Code 16-3-1 and Division of Health Rule, "Reportable Diseases, Events and Conditions", 64CDR7. This list is updated periodically by the Bureau for Public Health.

AIDS (within 30 days)
Amebiasis (Entamoeba histolytica)
Anthrax (Bacillus anthracis)
Botulism (Clostridium botulinum) **
Brucellosis (Brucella abortus, B. melitensis, B. suis, B. canis)**
Campylobacteriosis (Campylobacter jejuni, C. coli)
Chancroid
Chickenpox (Varicella) – Numerical totals only
Chlamydia trachomatis
Cholera (*Vibrio cholerae*)
Cryptosporidiosis (Cryptosporidium parvum)
Cyclospora infection
Dengue Fever
Diphtheria (*Corynebacterium diphtheriae*)**
E. coli O 157:H7 Disease
Encephalitis, arboviral
    Eastern Equine Encephalitis
    LaCrosse Encephalitis (California Group)
    St. Louis Encephalitis
    West Nile Virus
Encephalitis, Other primary and unspecified
Food borne Disease
Giardiasis (*Giardia lamblia*)
Gonococcal Disease – Drug-resistant disease, Neonatal conjunctivitis, or Pelvic Inflammatory Disease (within 24 hours)
Gonococcal Disease – All other
Haemophilus Influenzae, Invasive Disease**
Hantavirus Disease**
Hemolytic Uremic Syndrome, postdiarrheal
Hepatitis A, acute**
Hepatitis B, acute or perinatal**
Hepatitis C/other non-A or non-B, acute**
Hepatitis Delta**
Herpes, Genital
HIV (within 30 days)
Influenza-Like Illness – Numerical totals only
Leptospirosis**
Listeriosis (*Listeria monocytogenes*)
Lyme Disease (*Borrelia burgdorferi*)**
Malaria**
Meningitis, Other Bacterial – organisms not otherwise listed**
Meningitis, Viral or Aseptic
Mumps
Outbreaks, suspect or confirmed
Pertussis (Whooping Cough) (*Bordetella pertussis*)**

Plague (*Yersinia pestis*)
Poliomyelitis**
Psittacosis (*chlamydia psittaci*)
Rabies, human**
Rheumatic Fever
Rocky Mountain Spotted Fever**
Rubella Congenital Syndrome
Rubella (German measles)**
Rubeola (Measles)**
Salmonellosis (except Typhoid Fever – listed separately)
Shigellosis (*Shigella dysenteriae. S. boydii, S. flexnen, S. sonnei*)
Streptococcal Disease, Group A Invasive and/or Streptococcal Toxic Shock Syndrome (*S. pyogenes*)**
Streptococcus pneumoniae, drug-resistant invasive disease – include antibiotic susceptibility patterns**
Syphilis – primary, secondary, early latent, or congenital (within 24 hours)
Syphilis – late latent, late symptomatic, or neurosyphilis
Tetanus (*Clostridium tetani*)**
Trichinosis**
Tuberculosis – include antibiotic susceptibility patterns
Tularemia (*Francisella tularensis*)
Typhoid Fever (*Salmonella typhi*)**
Waterborne Disease
Yellow Fever
Unexplained or ill-defined illness, condition, or health occurrence of potential public health significance
*This is a general information list. The official list can be found in the reportable disease rule.
**A supplemental CDC or WVBPH report form is required in addition to the general case report.

STDs, HIV/AIDS, and tuberculosis are reported on special forms. Other diseases are submitted on the general "Confidential Reportable Disease Case Report." All report forms (general, supplemental, STD, Tuberculosis, and HIV/AIDS) can be obtained from your local health department. For questions or disease reporting or for epidemiologic consultation, call your local health department or the WV Bureau for Public Health, Division of Surveillance and Disease Control: HIV/AIDS Surveillance 1-800-423-1271; Immunization Program 1-800-642-3634; STD Program 1-800-642-8244; Tuberculosis Program 1-800-330-8126; all other diseases 1-800-423-1271 or 304-558-5358. The website address is: www.dhhr.wv.gov/bph

For emergency contact information after hours, call 1-304-558-4117.

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APPENDIX 78-1 C: NUTRITION -– MEAL AND SNACK PATTERNS

When planning meals and snacks, child care centers shall follow the meal and snack patterns developed for the United State Department of Agriculture's (USDA) Child and Adult Care Food Program (CACFP) or the West Virginia Leap of Taste Child Nutrition Standards (WV CACFP standards). The tables shown are current at the effective date of this rule; please refer to the following web site for current meal and snack patterns: http://wvde.state.wv.us/child-nutrition/leap-of-taste/.

A: MEAL PATTERNS FOR THE CHILD UP TO 12 MONTHS OF AGE

Age	Breakfast	Lunch or Supper	Supplement
Birth through 3 months	4-6 fl. oz. Formula[1] or Breast milk [2 3]	4-6 fl. oz. Formula[1] or Breast milk [2 3 6]	4-6 fl. oz. Formula[1] or Breast milk [2 3]
4 through 7 months	4-6 fl. oz. Formula[1] or Breast milk [2 3] 0-3 Tbsp. Infant Cereal [1 4]	4-6 fl. oz. Formula[1] or Breast milk [2 3] 0-3 Tbsp/Infant Cereal [1 4] 0-3 Tbsp. Fruit and/or Vegetable	4-6 fl. oz. Formula[1] or Breast milk [2 3]
8 through 11 months	6-8 fl. oz. Formula[1] or Breast milk [2 3] 2-4 Tbsp. Infant Cereal[1] 1-4 Tbsp. Fruit and/or Vegetable	6-8 fl. oz. Formula[1] or Breast milk [2 3] 2-4 Tbsp. Infant Cereal[1 44] and/or 1-4 Tbsp. Meat, fish, poultry, egg yolk, cooked dry beans or peas or ½ - 2oz. Cheese: or 1-4 oz. Cottage Cheese, cheese food or cheese spread; and 1-4 Tbsp. Fruit and/or Vegetable	2-4 fl. oz. Formula, Breast milk [2 3], or fruit juice[5] 1/2 Bread[4,6] or 0-2 Crackers [4,6]

[1]Infant formula and dry infant cereal shall be iron fortified.
[2]It is recommended that breast milk be served in place of formula from birth through 11 months.
[3]For some breast fed infants who regularly consume less than the minimum amount of breast milk per feeding, a serving of less than the minimum amount of breast milk may be offered with additional breast milk offered if the infant is still hungry.
[4]A serving of this component shall be optional.
[5]Fruit Juice shall be full strength.
[6]Bread and bread alternates shall be made from whole grain or enriched meal or flour.

B: MEAL PATTERNS FOR THE CHILD BETWEEN 1 YEAR AND 12 YEARS OF AGE

	Age 1 and 2	3 through 5 years	6 through 12 years
BREAKFAST			
Milk, fluid	½ cup	¾ cup	1 cup
Juice or fruit or vegetable	¼ cup	½ cup	½ cup
Bread and/or cereal, enriched or whole grain			
Bread or	½ slice	½ slice	1 slice
Cereal: Cold dry or	¼ cup[1]	1/3 cup[2]	¾ cup[3]
Hot cooked	¼ cup	¼ cup	½ cup
MIDMORNING OR MIDAFTERNOON SNACK (SUPPLEMENT) (Select 2 of these 4 components)			
Milk, fluid	½ cup	½ cup	1 cup
Meat and meat alternate or	½ oz.	½ oz.	1 oz.
yogurt, plain or sweetened	2 oz. or	2 oz. or	4 oz. or
and flavored	¼ cup	¼ cup	½ cup
eggs (large)	½ egg	½ egg	½ egg
Juice or fruit or vegetable	½ cup	½ cup	¾ cup
Bread and/or cereal, enriched or whole grain			
Bread or	½ slice	½ slice	1 slice
Cereal: Cold dry or	¼ cup[1]	1/3 cup[2]	¾ cup[3]
Hot Cooked	¼ cup	¼ cup	½ cup
LUNCH OR SUPPER			
Milk, fluid	½ cup	¾ cup	1 cup
Meat or meat alternate			
Lean Meat, poultry, or fish,			
cooked (lean meat with bone)	1 oz.	1 ½ oz.	2 oz.
Cheese	1 oz.	1 ½ oz.	2 oz.
Eggs (large)	½ egg	¾ egg	1 egg
Cooked dry beans and peas	¼ cup	3/8 cup	½ cup
Peanut Butter, soy nut, or other nut seed butter	1 Tbsp.	3 Tbsp.	4 Tbsp.
Peanuts, soy nuts, or tree nuts or seeds	½ oz. (50%)	¾ oz. (50%)	1 oz. (50%)
Yogurt	4 oz.	6 oz.	8 oz.
Vegetable and/or fruit (two or more)	¼ cup	½ cup	¾ cup
Bread or alternate,	½ slice	½ slice	1 slice
enriched or whole grain	¼ cup	¼ cup	½ cup

[1] 1/4 cup (volume) or 1/3 ounce (weight), whichever is less
[2] 1/3 cup (volume) or 1/3 ounce (weight), whichever is less
[3] 3/4 cup (volume) or 1 ounce (weight), whichever is less

Source: The Child and Adult Care Food Program, WV Leap of Taste

APPENDIX 78-1 D – DIAPER CHANGING AND TOILET TRAINING

§64-21-9. Diaper Changing and Toilet Training.

9.1. Children shall be diapered or have soiled underwear changed in an established diaper changing area. The changing area shall not be located in food preparation areas.

9.2. Staff shall change children's diapers or soiled underwear on a clean, safe, impervious, nonabsorbent surface that is used for no other purpose.

9.3. Staff shall clean the child's perineal (urinary and anal) area with disposable wipes.

9.4. After removing a soiled diaper and before putting a fresh diaper on a child, staff members shall wipe their own hands with a pre-moistened towelette or a damp paper towel.

9.5. Both the child's and the staff member's hands shall be thoroughly washed after each diaper change. If disposable gloves are used, they must be discarded immediately and hands washed.

9.6. Changing tables and surfaces shall be cleaned and disinfected after each use by cleaning to remove visible soil, followed by wiping with an approved disinfectant solution, whether or not disposable, nonabsorbent paper is used. If disposable paper is used, it shall be discarded immediately after each diapering.

9.7. Soiled cloth diapers and/or soiled training pants shall be stored in a labeled container with a tight-fitting lid provided by a commercial diaper service or in a sealed plastic bag that is sent home with the child at the end of the day. If diapers are laundered by a commercial diaper service, the service shall be accredited by the Diaper Service Accreditation Council. Feces from soiled cloth diapers or training pants shall be disposed of by dumping in a toilet.

9.8. Soiled disposable diapers shall be stored in conveniently located, washable, plastic-lined, tightly covered waste containers. Each container shall be labeled and kept clean and free of buildup of soil or odor.

9.9. Toilet training chairs, if used, shall be of easily cleanable construction and after each use shall be emptied into a toilet, and thoroughly cleaned and sanitized in a utility sink.

9.10. Hand washing sinks shall not be used for rinsing soiled diapers or clothing or for cleaning toilet training equipment.

Source: Division of Health rule, "Child Care Centers," 64CSR21, §64-21-9. (1997)

APPENDIX 78-1 E: STAFF/CHILD RATIO

Table A: Staff/Child Ratio for Single-Age Groups

AGE OF CHILDREN	MAXIMUM NUMBER OF CHILDREN TO BE CARED FOR BY ONE QUALIFIED STAFF MEMBER	MAXIMUM NUMBER OF CHILDREN IN A GROUP
6 weeks – 1 year (6 weeks – 12 months)	4	8
1 year – 2 years (13 months – 24 months)	4	12
2 years (25 - 35 months)	8	16
3 years (36 – 47 months)	10	20
4 years (48 – 59 months)	12	24
5 years – school–age (60 months – school-age	12	24
School-age	16	32

Table B: Staff/Child Ratio While Children Are Participating in Water Activities – Single-Age Groups

AGE OF CHILDREN	MAXIMUM NUMBER OF CHILDREN	NUMBER OF QUALIFIED STAFF MEMBERS
12 months and under	1	1
13 months – 24 months	2	1
25 – 59 months	4	1
60 months and over	8	1