**R381. Health and Human Services, Child Care Center Licensing.**

**R381-40. Commercial Preschool Programs.**

**R381-40-1. Authority and Purpose.**

(1) Section 26B-2-402 authorizes this rule.

(2) This rule establishes the foundational standards necessary to protect the health and safety of children in commercial preschool programs and defines the general procedures and requirements to get and maintain a license to provide this type of child care.

**R381-40-2. Definitions.**

(1) Terms used in this rule are defined in Rule R380-600. Additionally:

(2) "Background finding" means information in a background check that OBP uses to determine if a covered individual is or is not eligible to be involved with child care.

(3) "Barrier" means an enclosing structure including a fence, wall, bars, railing, or solid panel to prevent accidental or deliberate movement through or access to something.

(4) "Body fluid" means blood, urine, feces, vomit, mucus, or saliva.

(5) "Business day" means a day of the week the facility is open for business.

(6) "Business hours" means the hours the facility is open for business.

(7) " CCL" means Child Care Licensing in the Office of Licensing, Division of Licensing and Background Checks under the department that is delegated with the responsibility to enforce the rules under Titles R381 and R430 and Rule R380-600.

(8) "Capacity" means the maximum number of children the provider is allowed to care for at any given time.

(9) "Caregiver" means a covered individual who protects the health and safety of children. A covered individual is a caregiver when they:

(a) count in the caregiver-to-child ratio;

(b) meet the physical or emotional needs of the children, including diapering, toileting, feeding, or protecting them from harm; or

(c) supervise children.

(10) "Caregiver-to-child ratio" means the number of caregivers responsible for a specific number of children.

(11) "Child care" means continuous care and supervision of at least one qualifying child that:

(a) is in place of care ordinarily provided by a parent in the parent's home;

(b) occurs for less than 24 hours a day; and

(c) is provided for direct or indirect compensation.

(12) "Child care program" means a person or business that offers child care.

(13) "Choking hazard" means an object or a removable part on an object with a diameter of less than 1-1/4 inches and a length of less than 2-1/4 inches that could be caught in a child's throat blocking the airway and making it difficult or impossible to breathe.

(14) "Covered individual" means as defined in Rule R380-600.

(15) "Department" means the Utah Department of Health and Human Services.

(16) "Designated play surface" means any:

(a) accessible elevated surface for standing, walking, crawling, sitting or climbing; or

(b) accessible flat surface that is at least two by two inches in size and has an angle less than 30 degrees from horizontal.

(17) "Director" means an individual who meets the director qualifications in this rule and who assumes the child care program's day-to-day responsibilities for compliance with CCL rules.

(18) "Early childhood education" means a program of study that prepares an individual to teach children in their early years, normally from birth up to the age of eight years old.

(19) "Eligible" means as defined in Rule R380-600.

(20) "Entrapment hazard" means an opening greater than 3-1/2 by 6-1/4 inches and less than nine inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing entrapment and strangulation.

(21) "Facility" means a program or premises approved by OL to be used for child care.

(22) "Group" means the children who the provider assigns to one or more caregivers for the children's care and supervision.

(23) "Guest" means an individual who is not a covered individual and is at the child care facility for a short time with the provider's permission.

(24) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence.

(25) "Inaccessible" means out of reach for children by being:

(a) behind a properly secured child safety gate;

(b) if in a bathroom, at least 36 inches above any surface from where a child could stand or climb;

(c) located at least 36 inches above the floor;

(d) locked, including in a locked room, cupboard, or drawer; or

(e) secured with a child safety device, including a child safety cupboard lock or doorknob device.

(26) "Infectious disease" means an illness that is capable of being spread from one individual to another.

(27) "Involved with child care" means to do any of the following at or for a child care program:

(a) care for or supervise children;

(b) count in the caregiver-to-child ratio;

(c) have unsupervised contact with a child in care;

(d) own, operate, direct;

(e) reside; or

(f) volunteer.

(28) "License" means a license issued by OL to provide child care services.

(29) "Licensee" means the legally responsible person or business that holds a valid license from OL.

(30) "LIS supported finding" means a supported finding of child abuse or neglect in the Licensing Information System (LIS) database for child abuse and neglect, maintained by the department.

(31) "OBP" means as defined in Rule R380-600.

(32) "OL" means as defined in Rule R380-600.

(33) "Over-the-counter medication" means medication that an individual can purchase without a written prescription, including any herbal remedy, vitamin, and mineral supplement.

(34) "Parent" means the parent or legal guardian of a child in care.

(35) "Person" means as defined in Rule R380-600.

(36) "Play equipment platform" means a flat surface on a piece of stationary play equipment intended for more than one child to stand on and upon which a child can move freely.

(37) "Preschooler" means a child age two through four years old.

(38) "Protective barrier" means a structure including bars, lattice, or a panel around an elevated platform intended to prevent accidental or deliberate movement through or access to something.

(39) "Protective cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of an injury from a fall.

(40) "Qualifying child" means a child:

(a) who is younger than 13 years old and is the child of an individual other than the child care provider or caregiver;

(b) who is younger than four years old and is the child of the provider or a caregiver; or

(c) with a disability who is younger than 18 years old and is the child of an individual other than the provider or caregiver.

(41) "Related child" means a child for whom a provider is the parent, stepparent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.

(42) "Room" means a designated area or a physical space enclosed by solid barriers or partitions as follows:

(a) if a large room is divided into smaller rooms or areas with barriers including furniture or with half walls, the room or area is considered:

(i) one room, if the room is divided by a solid barrier that is less than 24 inches, whether the barrier is movable or immovable;

(ii) one room, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is an opening in the barrier through which caregivers and children can move freely;

(iii) two rooms, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked including with a child safety gate, including a diaper changing station that is located behind a closed gate;

(iv) two rooms, if the room is divided by a solid barrier that is over 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked including with a child safety gate; or

(v) if there is an opening through which caregivers and children can move freely and the opening is not blocked, refer to the instructions for a large opening, archway, or doorway;

(b) if two rooms or areas are connected by a large opening, archway, or doorway, the rooms or areas are considered:

(i) one room, if the width of the opening or archway is equal to or greater than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas, and there is no furniture or other dividers blocking the opening or archway, otherwise OL shall consider this to be two rooms; or

(ii) two rooms, if the width of the opening or archway is smaller than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas; and

(c) if in outdoor areas separated by interior fences, OL considers it:

(i) one area, if the interior fence is 24 inches in height or lower, whether or not the fence has an opening;

(ii) one area, if the interior fence is 40 inches or lower in height with an opening through which caregivers and children can move freely;

(iii) two areas if the interior fence is higher than 24 inches and there is no opening; or

(iv) two areas, if the interior fence is higher than 40 inches whether or not the fence has an opening.

(43) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.

(44) "Sexually explicit material" means any depiction of actual or simulated sexual conduct.

(45) "Sleeping equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.

(46) "Stationary play equipment" means equipment, including a climber, slide, swing, merry-go-round, or spring rocker, that is meant to stay in one location when a child uses it. Stationary play equipment does not include a:

(a) playhouse that sits on the ground or floor and does not have an attached slide, swing, or climber;

(b) sandbox;

(c) sensory table; or

(d) stationary circular tricycle.

(47) "Strangulation hazard" means something on which a child's clothes or drawstrings could become caught or in which a child could become entangled, including:

(a) a protruding bolt end that extends more than two threads beyond the face of the nut;

(b) a rope, cord, or chain that is attached to a structure and is long enough to encircle a child's neck; or

(c) hardware that forms a hook or leaves a gap or space between components, including a protruding open S-hook.

(48) "Unsupervised contact" means being with, caring for, communicating with, or touching a child in the absence of a caregiver or other employee who is at least 18 years old and is considered eligible by CCL.

(49) "Use zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment and onto which a child falling from or exiting the equipment could be expected to land.

(50) "Working day" means any day of the week the department is open for business.

**R381-40-3. License Required.**

(1) A person shall obtain a preschool program license from OL if the person provides care:

(a) for direct or indirect compensation;

(b) for each child for less than four hours a day;

(c) for five or more qualifying children between the ages of two and four years old;

(d) for five or more qualifying children between the ages of two and five years old if the children are not attending school;

(e) in a place other than the provider's home or a child's home;

(f) in the absence of a child's parent;

(g) on an ongoing basis for more than two days a week and for four or more weeks in a year; and

(h) where care does not include preparing any meal for a child.

(2) OL will not issue a license if care is only for related children or on a sporadic basis.

(3) OL may license a provider to provide child care in a facility that is also licensed by OL if the part of the facility requesting a CCL license is physically separate from the other facility services.

(4) A commercial preschool program licensee shall comply with Rule R380-600.

**R381-40-4. Fire and Other Health Inspections.**

(1) If the local fire authority states in writing that an applicant for a new license or a renewal does not require a fire inspection, OL shall verify the applicant's compliance by ensuring:

(a) address numbers and letters are readable from the street;

(b) boiler, mechanical, and electrical panel rooms are not used for storage;

(c) exit doors are unlocked from the inside during business hours;

(d) exit doors operate properly and are well maintained;

(e) exits are clearly identified;

(f) there are no obstructions in exits, aisles, corridors, and stairways;

(g) there are working smoke detectors that are properly installed on each level of the building; and

(h) there is at least one unobstructed fire extinguisher on each level of the building that is charged and serviced and mounted not more than five feet above the floor.

(2) If an applicant for a new license or a renewal serves food and the local health department states in writing that a kitchen inspection is not required, OL shall verify the applicant's compliance by ensuring:

(a) any chemical is stored away from food and food service items;

(b) any reusable food holder, utensil, and food preparation surface is washed, rinsed, and sanitized before each use;

(c) food is properly stored, kept to the proper temperature, and in good condition;

(d) the refrigerator is clean, in good repair, and working at or below 41 degrees Fahrenheit;

(e) there is a working handwashing sink in the kitchen and handwashing instructions posted by the sink; and

(f) there is a working thermometer in the refrigerator.

**R381-40-5. Immediate Closure.**

(1) In accordance with Rule R380-600, OL may order the immediate closure of a facility if conditions at the facility create a clear and present danger to any child in care.

(2) Upon receipt of an immediate closure notice, the provider shall give OL the names and mailing addresses of each enrolled child's parent so OL may notify the parents of the immediate closure.

(3) If there is a severe injury or death of a child in care, OL may order a child care provider to suspend services and prohibit new enrollments, pending a review by the Utah Child Fatality Review Committee or a determination of the probable cause of the injury or death by a medical professional.

**R381-40-6. Administration and Children's Records.**

(1) The provider shall:

(a) be at least 21 years old;

(b) be considered eligible by an OBP background check before becoming involved with child care; and

(c) complete the new provider training offered by OL.

(2) If the owner is not a sole proprietor, the business entity shall submit to OL the name and contact information of each individual who shall legally represent the business entity and who shall comply with Subsection R381-40-6(1).

(3) The provider shall protect children from conduct that endangers any child in care or is contrary to the health, welfare, and safety of the public.

(4) The provider shall know and comply with applicable federal, state, and local law, ordinance, and rule, and shall be responsible for the operation and management of a child care program.

(5) The provider shall comply with licensing rules any time a child in care is present.

(6) The provider shall post the provider's unaltered child care license on the facility premises in a place readily visible and accessible to the public.

(7) The provider shall post a current copy of OL's Parent Guide at the facility for parent review during business hours, or give a current copy to each parent.

(8) The provider shall inform each parent and OL of any changes to the program's telephone number and other contact information within 48 hours of the change.

(9) The provider shall:

(a) have liability insurance; or

(b) inform parents in writing that the provider does not have liability insurance.

(10) The provider shall ensure that a parent completes an admission and health assessment form for a child before the child is admitted into the child care program.

(11) The provider shall ensure that each child's admission and health assessment form includes:

(a) the child's name;

(b) the child's date of birth;

(c) each parent's name, address, and phone number, including a daytime phone number;

(d) the names of individuals authorized by the parent to sign the child out from the facility;

(e) the name, address, and phone number of an individual to be contacted if an emergency happens and the provider cannot contact the parent;

(f) if available, the name, address, and phone number of an out-of-area emergency contact individual for the child;

(g) the parent's permission for emergency transportation and emergency medical treatment;

(h) any known allergy of the child;

(i) any known food sensitivity of the child;

(j) any chronic medical condition that the child may have;

(k) any instructions for special or nonroutine daily health care of the child;

(l) any current ongoing medication that the child may be taking; and

(m) any other special health instructions for the caregiver.

(12) The provider shall ensure that the admission and health assessment form is:

(a) reviewed, updated, and signed or initialed by the parent at least annually; and

(b) kept on-site for review by OL.

(13) Before admitting any child into the program, including the provider's or an employee's own child, the provider shall obtain the following documentation from the child's parent:

(a) current immunizations;

(b) a medical schedule to receive required immunizations;

(c) a legal exemption; or

(d) a 90-day exemption for any foster child or child who is experiencing homelessness.

(14) For each child younger than five years old, including the provider's or employee's own child, the provider shall keep the child's current immunization records on-site for review by OL.

(15) The provider shall submit the annual immunization report to the Utah Statewide Immunization Information System by the date specified by the department.

(16) The provider shall ensure that each child's information is confidential and not released without written parental permission except to OL.

**R381-40-7. Personnel and Training Requirements.**

(1) The provider shall ensure that each employee and volunteer is supervised, qualified, and trained to:

(a) meet the needs of each child; and

(b) comply with this rule.

(2) The provider shall ensure that the preschool program has a qualified director.

(3) The provider shall ensure that the director:

(a) completes at least ten hours of child care training each year based on the facility's license date, or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year;

(b) completes the new director training offered by OL within 60 working days of assuming director duties;

(c) if hired after January 1, 2023, has completed the 2-1/2 hour preservice training offered by OL;

(d) is at least 21 years old;

(e) is considered eligible by an OBP background check before becoming involved with child care; and

(f) knows and follows any applicable law and this rule.

(4) The provider shall ensure that each new director has at least one of the following educational credentials:

(a) a currently valid national certification, including:

(i) a Certified Childcare Professional issued by the National Child Care Association;

(ii) a Child Development Associate issued by the Council for Early Childhood Professional Recognition;

(iii) a National Administrator Credential; or

(iv) another equivalent credential as approved by OL;

(b) any bachelor's or higher degree in education with at least 60 hours of coursework in child development, social and emotional development, and the child care environment, or 60 hours of equivalent training as approved by OL;

(c) at least an associate degree in early childhood development or a related field;

(d) at least 12 college credit hours of child development courses; or

(e) at least five years of early childhood education teaching experience.

(5) The provider shall ensure that the director is on duty at the facility for at least half the time every week the facility is open.

(6) The provider shall ensure that there is a director designee with authority to act on behalf of the director in the director's absence.

(7) The provider shall ensure that the director designee:

(a) completes at least ten hours of child care training each year based on the facility's license date or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year;

(b) completes the director designee training offered by OL;

(c) has current first aid and cardio pulmonary resuscitation (CPR) certification in accordance with Subsections R381-40-7(20) and (21);

(d) if hired after January 1, 2023, has completed the 2-1/2 hour preservice training offered by OL before becoming involved with child care;

(e) is at least 18 years old;

(f) is considered eligible by an OBP background check before becoming involved with child care; and

(g) knows and follows any applicable law and this rule.

(8) The provider shall ensure that the director or the director designee is present at the facility during business hours.

(9) The provider shall ensure that each caregiver:

(a) completes at least ten hours of child care training each year, based on the facility's license date, or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year;

(b) completes the 2-1/2 hour preservice training offered by OL before becoming involved with child care;

(c) is at least 16 years old;

(d) is considered eligible by an OBP background check before becoming involved with child care;

(e) is introduced to other program staff and to the caregiver's assigned group;

(f) knows and follows any applicable law and this rule; and

(g) reviews the information in each child's health assessment in the caregiver's assigned group, including allergies, food sensitivities, and other individual needs.

(10) The provider shall ensure that any other staff, including any driver, cook, and clerk:

(a) completes the 2-1/2 hour preservice training offered by OL before becoming involved with child care;

(b) knows and follows any applicable law and this rule; and

(c) is considered eligible by an OBP background check before becoming involved with child care.

(11) The provider shall ensure that each volunteer is considered eligible by an OBP background check before becoming involved with child care.

(12) The provider shall ensure that each guest or student intern who is registered and participating in a high school or college child care course wears a guest nametag.

(13) The provider shall ensure that each household member who is:

(a) 12 to 17 years old is considered eligible by an OBP background check; and

(b) 18 years old or older is eligible by an OBP background check that includes fingerprints.

(14) The provider shall ensure that any individual who provides an Individualized Educational Plan or Individualized Family Service plan services, including a physical, occupational, or speech therapist:

(a) provides identification before having access to the facility or to a child at the facility; and

(b) has received the child's parent's permission for services to take place at the facility.

(15) The provider shall ensure that any individual from law enforcement, Child Protective Services, the department, and any similar entity provides identification before having access to the facility or to a child at the facility.

(16) The provider shall ensure that each covered individual required to complete preservice training receives the 2-1/2 hour preservice training offered by OL that includes at least the following topics:

(a) administration of medication;

(b) applicable laws and requirements under Rule R381-40;

(c) building and physical premises safety;

(d) child and brain development, including the social, emotional, physical, cognitive, and language principles of child growth;

(e) children whose special needs may include a disability;

(f) emergency preparedness, response, and recovery plan;

(g) pediatric first aid and CPR;

(h) precautions in transporting children;

(i) prevention and control of infectious diseases including immunizations;

(j) prevention of and response to emergencies due to food and allergy reactions;

(k) prevention of shaken baby syndrome, abusive head trauma, child maltreatment, and coping with crying babies;

(l) prevention of sudden infant death syndrome and the use of safe sleeping practices;

(m) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;

(n) recognizing the signs of an individual experiencing homelessness and available assistance; and

(o) safe handling and disposal of hazardous materials and bio contaminants.

(17) The provider shall ensure that annual child care training includes at least each topic listed in:

(a) Sections R381-40-7 through R381-40-22; and

(b) Subsections R381-40-7(16)(a) through (o).

(18) The provider shall ensure that documentation of each individual's annual child care training is on-site for review by OL and includes the:

(a) date of the training;

(b) name of the individual or organization that presented the training;

(c) total hours or minutes of the training; and

(d) training topic.

(19) The provider shall ensure that at least one staff member with a current Red Cross, American Heart Association, or equivalent pediatric first aid and CPR certification is present when a child is in care:

(a) at each offsite activity;

(b) at the facility; and

(c) in each vehicle transporting a child.

(20) The provider shall ensure that CPR certification includes hands-on testing.

(21) The provider shall ensure that the following records for each covered individual are on-site for review by OL:

(a) the date of initial employment or association with the program;

(b) a current pediatric first aid and CPR certification, if required in this rule; and

(c) a six-week record of the times worked each day.

**R381-40-8. Background Checks.**

(1) Before a new covered individual becomes involved with child care, the provider shall use the licensing provider portal search to verify that the individual is eligible and:

(a) associate that individual with the provider's facility; or

(b) not associate the individual if the individual is associated with another CCL facility and the new individual will be at the facility for no more than one business day.

(2) Before a new covered individual who does not appear in the licensing provider portal search becomes involved with child care in the program, the provider must require the individual to submit an online background check application and fingerprints for any individual age 16 years old and older, except for any individual 12-17 years old who is only listed as a household member and:

(a) authorize the individual's background check through the licensing provider portal;

(b) pay any required fee; and

(c) only allow the individual to be involved with child care if they have an eligible OBP background check determination.

(3) To keep a covered individual's background check eligibility current, the provider shall require the covered individual to submit a new background check application, fingerprints, and any fee if the covered individual has:

(a) not been associated with an active, CCL approved child care facility within the past 180 days;

(b) resided outside of Utah since the individual's last background check was completed; or

(c) turned 18 years old and has not previously submitted fingerprints for an OBP background check, except when the 18-year-old has previously submitted fingerprints for an OBP background check, then only a new background check application is required.

(4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall ensure that an online background check application is submitted, and:

(a) authorize the child's background check through the licensing portal; and

(b) pay any required fee.

(5) The provider shall ensure that fingerprints are prepared by a local law enforcement agency or an agency approved by local law enforcement.

(6) If a covered individual submits fingerprints electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows OBP's fingerprinting requirements.

(7) OBP may consider a covered individual not eligible for:

(a) a pending conviction for a felony offense;

(b) any felony conviction;

(c) any of the reasons listed under Subsection (8);

(d) any LIS supported finding that occurred no more than 15 years from the date the application was submitted;

(e) the covered individual knowingly making a false statement related to that individual's background check;

(f) the covered individual's name appearing on the Utah or national sex offender registry; or

(g) the covered individual refusing to consent to the criminal background check.

(8) OBP may also consider a covered individual not eligible if the individual has been convicted, has pleaded no contest, or is currently subject to a plea and abeyance or diversion agreement for any of the following pending charges or convictions, regardless of severity:

(a) child pornography;

(b) driving under the influence while a child is present in the vehicle;

(c) lewdness involving a child;

(d) pornographic material or performance;

(e) providing dangerous weapons or firearms to a minor;

(f) sexual battery;

(g) sexual enticing of a minor;

(h) sexual exploitation;

(i) voyeurism; or

(j) any crime against an individual.

(9) OBP shall consider a covered individual eligible if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before OBP conducted the background check.

(10) If the provider is not eligible by OBP, OL may suspend or deny the license until the reason for the background check finding is resolved.

(11) If a covered individual is considered not eligible by OBP, including if the individual has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, the provider shall prohibit that individual from being employed by the child care program or residing at the facility until the reason for the background check finding is resolved.

(12) If OBP denies a covered individual a license or employment by the provider based upon the criminal background check and the covered individual disagrees with the information provided by the Department of Public Safety (DPS), the covered individual may appeal the information to DPS.

(13) The provider and the covered individual shall notify OBP within 48 hours of becoming aware of a covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or LIS supported finding. Failure to notify OBP within 48 hours may result in disciplinary action, including license revocation.

(14) The OBP director or designee may consider any additional relevant background information to grant, deny, or continue an eligible determination on a background check, including:

(a) intervening circumstances regarding an offense or finding;

(b) steps taken to correct or improve since any offense or finding;

(c) surrounding circumstances of an offense or finding;

(d) the length of time since an offense or finding; and

(e) the type and number of offenses or findings.

(15)(a) OBP shall rely on relevant information from Subsections (7) and (8) as conclusive evidence and may deny a covered individual based on that information.

(b) A covered individual may resubmit a denied application to OBP no sooner than two years from the date of separation or upon substantial change to the covered individual's circumstances.

(16) If OBP determines evidence exists that a covered individual has been arrested or charged with an offense that may be denied under Subsections (7) and (8), the Division of Licensing and Background Checks may act to protect the health and safety of a child.

(17) OBP may allow a covered individual access to a child with conditions, until the arrest or criminal charges are resolved, if the covered individual can demonstrate the work arrangement does not pose a threat to the health and safety of the child.

(18) A covered individual may request a hearing, in accordance with Section R497-100-5, within 15 calendar days of being informed in writing of any OBP decision.

**R381-40-9. Facility.**

(1) The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint undergoes a test for lead. If there is lead-based paint at the facility, the provider shall contact the local health department within five working days and follow required procedures for remediation of the lead hazard.

(2) The provider shall ensure that each room and indoor area that children use is ventilated by mechanical ventilation or by windows that open and have screens.

(3) The provider shall ensure that windows and glass doors within 36 inches from the floor or ground are made of safety or tempered glass or have a protective guard.

(4) The provider shall ensure that rooms and areas have adequate light intensity for the safety of the children and the type of activity the provider is conducting.

(5) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.

(6) The provider shall ensure that there is a working telephone:

(a) at the facility;

(b) during any offsite activity; and

(c) in each vehicle while transporting a child.

(7) The provider shall ensure that there is:

(a) at least one working toilet and one working sink when there are up to 15 children in the facility; and

(b) at least two working toilets and two working sinks when there are more than 15 children present in the facility.

(8) If there is an outdoor area at the facility, the provider shall ensure that the outdoor area:

(a) has a fence, wall or solid natural barrier that is at least four feet high to enclose the outdoor area;

(b) has no gaps five by five inches or greater in or under any fence or barrier; and

(c) is safely accessible to any child.

(9) If there is a swimming pool on the premises that the provider does not empty after each use, the provider shall:

(a) maintain the pool in a safe manner;

(b) meet applicable state and local laws and ordinances related to the operation of a swimming pool; and

(c) when not in use:

(i) cover the pool with a commercially made safety enclosure that is installed according to the manufacturer's instructions or

(ii) enclose the pool within at least a four-foot-high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises.

(10) The provider shall maintain any building and outdoor area in good repair and safe condition, including any:

(a) ceiling, wall, and floor covering;

(b) drape, blind, and other window covering;

(c) entrance, exit, step, and walkway, including keeping them free of ice, snow, and other hazards;

(d) furniture, toy, and material accessible to a child;

(e) indoor and outdoor equipment; and

(f) lighting, bathroom, and other fixture.

(11) The provider shall ensure that a protective barrier of at least three feet or higher exists for:

(a) any accessible raised deck or balcony that is five feet or higher; and

(b) any open stairwell that is five feet or deeper.

(12) If the facility is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, OL may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with this rule, except when:

(a) there is a separate entrance for the child care program;

(b) there are no connecting interior doorways that can be used by unauthorized individuals; and

(c) there is no shared access to the outdoor area used for child care.

**R381-40-10. Capacity and Ratio.**

(1) OL may limit the maximum allowed capacity for a child care facility based on local ordinances.

(2) The provider shall ensure that the number of children in care at any given time does not exceed the capacity identified on the license.

(3) OL may determine the total capacity based on the number of rooms and the ages of any child cared for in those rooms.

(4) As listed in Table 1 for a single-age group of children, the provider shall:

(a) maintain at least the number of required caregivers; and

(b) not exceed the number of children in the caregiver-to-child ratio per room.

|  |  |  |
| --- | --- | --- |
| TABLE 1  Caregiver-to-Child Ratios | | |
| Number of Caregivers | Ages of Children | Number of Children |
| At least 1 | 2 years old | 8 |
| At least 1 | 3 years old | 12 |
| At least 1 | 4 years old | 15 |
| At least 1 | 5 years old | 20 |

(5) As listed in Tables 2 through 4 for a mixed-age group of children, the provider shall:

(a) maintain at least the number of required caregivers; and

(b) not exceed the number of children in the caregiver-to-child ratio per room.

|  |  |  |
| --- | --- | --- |
| TABLE 2  Two-to-Five-Year-Olds | | |
| Number of Caregivers Required | Ages of Children | Number of Children Present |
| At least 1 | 2 years old | 1-7 |
| 3, 4, and 5 years old | 1-10 |
| Maximum Total of Children in the Room: 11 | | |

|  |  |  |
| --- | --- | --- |
| TABLE 3  Three-to-Five-Year-Olds | | |
| Number of Caregivers Required | Ages of Children | Number of Children Present |
| At least 1 | 3 years old | 1-11 |
| 4 years old | 1-14 |
| 5 years old | 1-14 |
| Maximum Total of Children in the Room: 16 | | |

|  |  |  |
| --- | --- | --- |
| TABLE 4  Four-to-Five-Year-Olds | | |
| Number of Caregivers Required | Ages of Children | Number of Children Present |
| At least 1 | 4 years old | 1-14 |
| 5 years old | 1-17 |
| Maximum Total of Children in the Room: 18 | | |

(6) The provider may exclude the provider's or an employee's own child, age four years or older, from the caregiver-to-child ratio when the parent of the child is working at the facility.

(7) The provider may include in the caregiver-to-child ratio any:

(a) caregiver;

(b) student intern who is registered in a high school or college child care course; and

(c) volunteer who is 16 years old or older.

**R381-40-11. Child Supervision and Security.**

(1) The provider shall ensure that each caregiver provides and maintains active supervision of each child, including:

(a) focusing attention on the children and not on caregivers' personal interests;

(b) knowing the number of children in the caregiver's care at any time;

(c) positioning themselves so each child in an assigned group is actively supervised;

(d) remaining aware of the entire group even when interacting with a smaller group or an individual child; and

(e) remaining physically present in the room or area with the children.

(2) The provider shall ensure a 16 or 17 year old staff or household member may only have unsupervised contact with a child in care, including during offsite activities and transportation, if:

(a) the director or the director designee is physically present and available as needed;

(b) the staff or household member is left unsupervised for no more than two consecutive hours per group; and

(c) the staff or household member is not a volunteer.

(3) The provider may not assign a staff member, volunteer, and household member who is younger than 16 years old to care for or supervise any child in care.

(4) The provider shall ensure that any guest or student intern who is registered and participating in a high school or college child care course does not have unsupervised contact with any child in care, including during any offsite activity and transportation.

(5) The provider shall ensure that any parent of a child in care does not have unsupervised contact with any child in care, except with that parent's own child.

(6) The provider shall ensure that a parent has access to that parent's child and the areas used to care for the child when the child is in care.

(7) To maintain security and supervision of children, the provider shall ensure that:

(a) any individual signing a child in and out uses an identifier, including a signature, initials, or electronic code;

(b) each child is signed in and out in accordance with this section;

(c) only a child's parent or an individual with written authorization from the parent may sign-out a child;

(d) photo identification is required if the individual signing the child out is unknown to the provider: and

(e) the sign-in and sign-out records include the date and time each child arrives and leaves;

(8) In an emergency, the provider shall accept the parent's verbal authorization to release a child if the provider can confirm the identity of:

(a) the person giving verbal authorization; and

(b) the person picking up the child.

(9) The provider shall ensure that a six-week record of each child's daily attendance, including sign-in and sign-out records, is kept on-site for review by OL.

**R381-40-12. Child Guidance and Interaction.**

(1) The provider shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.

(2) The provider shall inform each child, each parent, and anyone who interacts with any child in care of the program's behavioral expectations and how any misbehavior will be handled.

(3) The provider shall ensure that any individual who interacts with a child guides the child's behavior by using positive reinforcement, redirection, and by setting clear limits that promote the child's ability to become self-disciplined.

(4) The provider shall ensure that each caregiver uses gentle, passive restraint with a child only when it is needed to protect a child from injuring themselves or others or to stop a child from destroying property.

(5) The provider shall ensure that each interaction with a child does not include:

(a) any action that produces physical pain or discomfort, including hitting, spanking, shaking, biting, or pinching;

(b) any form of corporal punishment;

(c) any form of emotional mistreatment;

(d) confining a child in a closet, locked room, or other enclosure including a box, cupboard, or cage;

(e) forcing or withholding food, rest, or toileting;

(f) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint; or

(g) shouting at children.

(6) Any individual who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in Section 80-2-602.

**R381-40-13. Child Safety and Injury Prevention.**

(1) The provider shall ensure that any child and staff use each building, outdoor area, toy, and any equipment safely and as intended by the manufacturer to prevent injury to children.

(2) The provider shall ensure that any poisonous or harmful plant is inaccessible to children.

(3) The provider shall ensure that any sharp object, edge, corner, or point that could cut or puncture skin is inaccessible to children.

(4) The provider shall ensure that any choking hazard is inaccessible to any child younger than three years old.

(5) The provider shall ensure that any strangulation hazard, including any rope, cord, chain, and wire attached to a structure and long enough to encircle a child's neck is inaccessible to children.

(6) The provider shall ensure that any tripping hazard including unsecured flooring, any rug with a curled edge, or cord in a walkway is inaccessible to children.

(7) The provider shall ensure that any empty plastic bag large enough for a child's head to fit inside, any latex glove, or balloon is inaccessible to any child younger than five years old.

(8) The provider shall ensure that standing water that measures two inches or deeper and five by five inches or greater in diameter is inaccessible to children.

(9) The provider shall ensure that any toxic or hazardous chemical, including any cleaner, insecticide, lawn product, and flammable, corrosive, and reactive material is:

(a) disposed of properly;

(b) inaccessible to any child;

(c) stored in a container labeled with the contents of the container; and

(d) used according to manufacturer instructions.

(10) The provider shall ensure that the following items are inaccessible to children:

(a) cigarette lighters;

(b) hot wax or other hot substances;

(c) matches;

(d) open flames; and

(e) when in use, portable space heaters, wood burning stoves, and fireplaces.

(11) The provider shall ensure that the following items are inaccessible to a child:

(a) any live electrical wire; and

(b) for a child younger than five years old, any electrical outlet and surge protector without a protective cap or safety device when not in use.

(12) Unless used and stored as allowed by any state or federal law, the provider shall ensure that any firearm, including a gun, muzzleloader, rifle, shotgun, handgun, pistol, and automatic gun, is:

(a) locked in a cabinet or area using a key, combination lock, or fingerprint lock; and

(b) stored unloaded and separate from ammunition.

(13) The provider shall ensure that any weapon, including a paintball gun, BB gun, airsoft gun, sling shot, arrow, and mace, is inaccessible to children.

(14) The provider shall ensure that any alcohol, illegal substance, or sexually explicit material is inaccessible and not used on the premises, during any offsite activity, or in a program vehicle any time a child is in care.

(15) If there is an outdoor area used by any child, the provider shall ensure that an outdoor source of drinking water, including individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain, is available to each child when the outside temperature is 75 degrees Fahrenheit or higher.

(16) The provider shall ensure that each area accessible to a child is free of any heavy or unstable object that a child could pull down on themselves, including any furniture, unsecured television, and standing ladder.

(17) The provider shall ensure that hot water accessible to a child does not exceed 120 degrees Fahrenheit.

(18) The provider shall ensure that any tobacco, e-cigarette, e-juice, e-liquid, or similar product is inaccessible and, in compliance with Title 26, Chapter 38, Utah Indoor Clean Air Act, is not used:

(a) in a facility or any other building when a child is in care;

(b) in any vehicle that is being used to transport a child in care;

(d) in any outdoor area or within 25 feet of any outdoor area occupied by a child in care;

(c) within 25 feet of any entrance to a facility or other building occupied by a child in care.

**R381-40-14. Emergency Preparedness and Response.**

(1) The provider shall develop and follow a written emergency preparedness, response, and recovery plan that:

(a) includes a procedure for:

(i) accommodating a child with a disability;

(ii) communication with and reunification of families;

(iii) continuity of operations;

(iv) evacuation;

(v) lockdown;

(vi) relocation; and

(vii) shelter in place.

(b) includes instructions to follow if there is an allergy, serious reaction to food, or any other trigger that may affect a child's health;

(c) is available for review by any parent, staff member, and OL during business hours; and

(d) is followed if an emergency happens, unless otherwise instructed by emergency personnel.

(2) The provider shall post the facility's street address and any emergency number, including at least fire, police, and poison control, near each telephone in the facility or in an area clearly visible to anyone needing the information.

(3) The provider shall keep first aid supplies in the facility, including at least antiseptic, bandages, and tweezers.

(4) The provider shall conduct a fire evacuation drill at least quarterly and ensure each drill includes a complete exit of each child, staff member, and volunteer from the building.

(5) The provider shall conduct a drill for disasters, other than fires, at least once every six months.

(6) The provider shall give each parent a written report of every incident, accident, or injury involving that parent's child.

(7) If a child is injured and the injury appears serious but not life-threatening, the provider shall contact the child's parent immediately.

(8) If a life-threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb happens, the provider shall submit a critical incident report to OL within one business day and:

(a) call emergency personnel immediately;

(b) contact the parent after emergency personnel are called; and

(c) if the parent cannot be reached, try to contact the child's emergency contact individual.

(9) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall submit a critical incident report to OL within one business day.

(10) The provider shall keep a six-week record of each incident, accident, and injury report on-site for review by OL.

(11) The provider shall ensure compliance with critical incident reporting in accordance with Subsection R380-600-7(16).

**R381-40-15. Health and Infection Control.**

(1) The provider shall maintain the building, furnishings, equipment, and outdoor area, including keeping:

(a) any frequently touched surface, including each doorknob and light switch, clean and sanitized;

(b) each area and any equipment used for the storage, preparation, and service of food clean and sanitized;

(c) each surface free of rotting food or a build-up of food;

(d) each wall and floor clean and free of spills, dirt, and grime;

(e) the building and grounds free of a build-up of litter and garbage; and

(f) the building and grounds free of animal feces.

(2) The provider shall take safe and effective measures to prevent and eliminate the presence of insects, rodents, and other pests.

(3) The provider shall ensure that any fabric toy and item, including any stuffed animal, cloth doll, pillow cover, and dress-up clothing, is machine washable and washed weekly, and as needed.

(4) The provider shall clean and sanitize any toy and material used by a child:

(a) at least once a week or more often if needed; and

(b) after being contaminated by a body fluid.

(5) The provider shall clean and sanitize each water play table or tub daily, if used by a child.

(6) The provider shall clean and sanitize each bathroom surface including any toilet, sink, faucet, and counter.

(7) The provider shall ensure that toilet paper is accessible and kept in a dispenser.

(8) The provider shall post handwashing procedures that are readily visible from each handwashing sink and shall ensure that each staff follow the procedures.

(9) The provider shall ensure that each staff and volunteer washes their hands thoroughly with liquid soap and running water at required times, including:

(a) after cleaning up or taking out garbage;

(b) after contact with a body fluid;

(c) after diapering a child;

(d) after using the toilet or helping a child use the toilet;

(e) before administering any medication to a child;

(f) before and after eating a meal or snack or feeding a child;

(g) upon arrival; and

(h) when coming in from outdoors.

(10) The provider shall ensure that each caregiver teaches each child how to wash the child's hands thoroughly and that the caregiver oversees handwashing when possible.

(11) The provider shall ensure that each child washes their hands thoroughly with liquid soap and running water at required times, including:

(a) after contact with a body fluid;

(b) after using the toilet;

(c) before eating a snack;

(d) before using a water play table or tub;

(e) upon arrival; and

(f) when coming in from outdoors.

(12) The provider shall ensure that only single-use towels from a covered dispenser or an electric hand dryer are used to dry hands.

(13) The provider shall ensure that any personal hygiene items, including a toothbrush, comb, and hair accessory, are not shared and are stored so they do not touch each other or they are sanitized between each use.

(14) The provider shall ensure the prompt change of a child's clothing if the child has a toileting accident.

(15) The provider shall ensure that a child's clothing that is wet or soiled from a body fluid is:

(a) not rinsed or washed at the facility;

(b) placed in a leakproof container that is labeled with the child's name; and

(c) returned to the parent or thrown away with parental consent.

(16) The provider shall ensure that staff take precautions when cleaning any floor, furniture, or other surface contaminated by blood, urine, feces, or vomit. Except for toileting accidents, staff shall:

(a) clean the surface using a detergent solution;

(b) rinse the surface with clean water;

(c) sanitize the surface;

(d) throw away, in a leakproof plastic bag, any disposable material, including paper towels, that were used to clean up the body fluid;

(e) wash and sanitize any non-disposable material used to clean up the body fluid, including any cleaning cloth, mop, or reusable rubber glove, before reusing it;

(f) wear waterproof gloves; and

(g) wash their hands after cleaning up the body fluid.

(17) The provider may not care for a child who is ill with an infectious disease at the facility, except when the child shows signs of illness after arriving at the facility.

(18) If a child becomes ill while in care:

(a) the provider shall contact the child's parent or, if the parent cannot be reached, an individual listed as the emergency contact, to immediately pick up the child; and

(b) if the child is ill with an infectious disease, the provider shall make the child comfortable in a safe, supervised area that is separated from any other child until the parent arrives.

(19) If any child or employee has an infectious disease, an unusual or serious illness, or a sudden onset of an illness, the provider shall notify the local health department on the day the provider discovers the illness.

(20) If any child or employee has an infectious disease or parasite, the provider shall post a notice at the facility that:

(a) does not disclose any personal identifiable information;

(b) is posted and dated on the same day that the disease or parasite is discovered;

(c) is posted in a conspicuous place where it can be seen by parents; and

(d) remains posted for at least five business days.

**R381-40-16. Food and Nutrition.**

(1) The provider shall ensure that each child is offered a snack at least once every three hours when services are provided for three or more hours.

(2) The provider shall ensure that the person who serves food to a child:

(a) is aware of each child in an assigned group who has a food allergy or sensitivity; and

(b) ensures that a child is not served the food that the child is allergic or sensitive to.

(3) If a parent brings food and drink for a child's use, the provider shall ensure that the food and drink is:

(a) consumed only by that child;

(b) labeled with the child's name; and

(c) refrigerated if needed.

**R381-40-17. Medications.**

(1) The provider shall lock any nonrefrigerated medication or store it at least 48 inches above the floor.

(2) The provider shall lock any refrigerated medication or store it at least 36 inches above the floor and, if liquid, store it in a separate leakproof container.

(3) If a parent supplies any over-the-counter or prescription medication, the provider shall ensure that medication:

(a) is labeled with the child's full name;

(b) is stored in the original or pharmacy container; and

(c) has the original label.

(4) The provider shall obtain a written medication permission form completed and signed by the parent before administering any medication supplied by the parent for a child.

(5) The provider shall ensure that the medication permission form includes at least:

(a) a parent signature and the date signed;

(b) any written instructions for administration;

(c) the name of the child; and

(d) the name of the medication.

(6) The provider shall ensure that instructions for administering the medication include at least:

(a) how the medication will be given;

(b) the disease or condition being treated;

(c) the dosage; and

(d) the times and dates to administer the medication.

(7) If the provider supplies an over-the-counter medication for a child's use, the provider shall ensure that no staff administer the medication to any child without previous parental consent for each instance it is given. The provider shall ensure that the consent is:

(a) written; or

(b) verbal, if the date and time of the consent is documented and signed by the parent upon picking up a child.

(8) The provider shall ensure that the staff administering the medication:

(a) checks the medication label to confirm the child's name if the parent supplied the medication;

(b) checks the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer;

(c) washes their hands; and

(d) administers the medication.

(9) The provider shall ensure that immediately after administering a medication, the staff giving the medication records:

(a) any error in administering the medication or adverse reactions;

(b) the date, time, and dosage of the medication given; and

(c) the staff's signature or initials.

(10) The provider shall report to the parent a child's adverse reaction to a medication or error in administration of the medication immediately upon recognizing the reaction or error, or after notifying emergency personnel if the reaction is life-threatening.

(11) The provider shall notify the parent before the scheduled medication dosage to a child if the provider chooses not to administer medication as instructed by the parent.

(12) The provider shall keep a six-week record of medication permission and administration forms on-site for review by OL.

**R381-40-18. Activities.**

(1) The provider shall offer daily activities that support each child's healthy physical, social, emotional, cognitive, and language development.

(2) The provider shall ensure that physical development activities include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every two hours that children spend in the program.

(3) The provider shall post a daily schedule that includes activities that support a child's healthy development.

(4) The provider shall ensure that any toy, material, and equipment needed to support a child's healthy development is available to each child.

(5) Except for occasional special events, the provider shall ensure that each child's primary screen time activity on media, including any television, cell phone, tablet, and computer, is limited to 30 minutes a day or 2-1/2 hours per week.

(6) If the provider offers swimming activities or if a wading pool is used, the provider shall ensure that:

(a) a caregiver stays at the pool supervising when a child is in the pool or has access to the pool, and when an accessible pool has water in it;

(b) any diapered child wears a swim diaper when the child is in the pool;

(c) each lifeguard and pool personnel does not count toward the caregiver-to-child ratio;

(d) each wading pool is emptied and sanitized after use by each group of children;

(e) if the pool is deeper than four feet, there is a lifeguard on duty who is certified by the Red Cross or another approved certification program any time a child has access to the pool; and

(f) the parent gives permission before a child uses the pool.

(7) If the provider offers offsite activities, the provider shall ensure that:

(a) a child's name is not used on a nametag, t-shirt, or in any other visible way;

(b) each child wears or carries with them the name and phone number of the center;

(c) first aid supplies, including at least antiseptic, bandages, and tweezers are available;

(d) the child's parent gives written consent before each activity;

(e) the required staff-to-child ratio and supervision are maintained during the entire activity; and

(f) there is a way for each child and caregiver to wash their hands with soap and water, or, if there is no source of running water, with a wet wipe or hand sanitizer.

(8) The provider shall ensure that a caregiver with the children takes the written emergency information and releases for each child in the group on each offsite activity and that the information includes at least:

(a) the child's name;

(b) the parent's name and phone number;

(c) the name and phone number of a person to notify if there is an emergency and the parent cannot be contacted;

(d) the name of any person authorized by the parent to pick up the child; and

(e) current emergency medical treatment and emergency medical transportation releases.

**R381-40-19. Play Equipment.**

(1) The provider shall ensure that each child using play equipment uses it safely and as intended by the manufacturer.

(2) The provider shall ensure that:

(a) stationary play equipment has a surrounding use zone that extends from the outermost edge of the equipment; and

(b) with the exception of a swing, stationary play equipment has at least a six-foot use zone, if any designated play surface is higher than 20 inches.

(3) The provider shall ensure that the use zone in the front and rear of a single-axis, enclosed swing extends at least twice the distance of the swing pivot point to the swing seat.

(4) The provider shall ensure that the use zone in the front and rear of a single-axis swing extends at least twice the distance of the swing pivot point to the ground.

(5) The provider shall ensure that the use zone for a multi-axis swing, including a tire swing, extends at least the measurement of the suspending rope or chain plus six feet.

(6) The provider shall ensure that the use zone for a merry-go-round extends at least six feet in any direction from its outermost edge.

(7) The provider shall ensure that the use zone for a spring rocker extends:

(a) at least three feet from the outermost edge of the rocker when at rest; or

(b) at least six feet from the outermost edge of the rocker when at rest, if the seat is higher than 20 inches.

(8) The provider shall ensure that each use zone does not overlap with the use zone of any other piece of play equipment when the use zone is:

(a) in front of a slide;

(b) in the front and rear of any single-axis swing, including a single-axis enclosed swing;

(c) that of a multi-axis swing; and

(d) that of a merry-go-round, if the platform diameter measures 20 inches or more.

(9) Unless prohibited in Subsection R381-40-19(8), the provider shall ensure that the use zones of play equipment only overlap when:

(a) there is at least six feet between each piece of equipment if the designated play surface is 30 inches or lower; or

(b) there is at least nine feet between each piece of equipment if the designated play surface is higher than 30 inches.

(10) The provider shall ensure that, when in use, stationary play equipment is not placed on a hard surface, including concrete, asphalt, dirt, and the bare floor.

(11) The provider shall ensure that protective cushioning covers the entire surface of each required use zone and that its depth or thickness is determined by the highest designated play surface of the equipment.

(12) If the provider uses sand, gravel, or shredded tires as protective cushioning, the provider shall ensure that:

(a) the depth of the material meets the guidelines in Table 5;

(b) the cushioning is periodically checked for compaction and, if compacted, loosened to the depth listed in Table 5; and

(c) if the material cannot be loosened to the depth listed in Table 5 due to extreme weather conditions, a child may not play on the equipment until the material can be loosened to the required depth.

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| --- | --- | --- | --- | --- | --- |
| TABLE 5  Depths of Protective Cushioning Required for Sand, Gravel, and Shredded Tires and Rubber Products | | | | | |
| Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point | Fine Sand | Coarse Sand | Fine Gravel | Medium Gravel | Shredded Tires and Rubber Products |
| Up to 5' high | 6" | 6" | 6" | 6" | 6" |
| Over 5' up to 6' | 6" | 9" | 6" | 9" | 6" |
| Over 6' up to 9' | 9" | Not allowed | 9" | Not allowed | 6" |
| Over 9' up to 10' | Not allowed | Not allowed | 9" | Not allowed | 6" |
| Over 10' up to 12' | Not allowed | Not allowed | Not allowed | Not allowed | 6" |

(13) If the provider uses shredded wood products as protective cushioning, the provider shall:

(a) ensure the depth of the shredded wood meets the guidelines in Table 6;

(b) ensure there is adequate drainage under the material; and

(c) keep on-site for review by OL documentation from the manufacturer that the wood product is protective cushioning.

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| --- | --- | --- | --- |
| TABLE 6  Depths of Protective Cushioning Required for Shredded Wood Products | | | |
| Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point | Engineered Wood Fibers | Wood Chips | Double Shredded Bark Mulch |
| Up to 6' high | 6" | 6" | 6" |
| Over 6' up to 7' | 9" | 6" | 9" |
| Over 7' up to 11' | 9" | 9" | 9" |
| Over 11' | 9" | Not allowed | Not allowed |

(14) If the provider uses a unitary cushioning, the provider shall keep on-site for review by OL documentation from the manufacturer specifying that the material is playground cushioning.

(15) If the provider uses a unitary cushioning, the provider shall ensure that the cushioning material is securely installed, so that it cannot be:

(a) displaced when a child jumps, runs, walks, lands, or moves on it; or

(b) moved or picked up by a child.

(16) The provider shall ensure that a play equipment platform more than 30 inches above the floor or ground has a protective barrier that is at least 29 inches high.

(17) The provider shall ensure that there is no gap greater than 3-1/2 inches in or under a required protective barrier on a play equipment platform.

(18) The provider shall ensure that stationary play equipment is stable or securely anchored.

(19) The provider shall ensure that there is no trampoline on the premises that is accessible to any child in care.

(20) The provider shall ensure that there is no entrapment hazard on or within the use zone of any piece of stationary play equipment.

(21) The provider shall ensure that there is no strangulation hazard on or within the use zone of any piece of stationary play equipment.

(22) The provider shall ensure that there is no crush, shearing, or sharp edge hazard on or within the use zone of any piece of stationary play equipment.

(23) The provider shall ensure that there is no tripping hazard, including any concrete footing, tree stump, tree root, or rock within the use zone of any piece of stationary play equipment.

(24) For a preschool program operating before January 1, 2021 that needs to make compliance modifications to existing play equipment, OL may facilitate a phase-in schedule for up to five years from the initial inspection.

**R381-40-20. Transportation.**

(1) For each child that the licensee transports, the provider shall obtain a transportation permission form that is:

(a) signed by a parent; and

(b) on-site for review by OL.

(2) The provider shall ensure that each vehicle used for transporting children:

(a) is enclosed with a roof or top;

(b) is equipped with safety restraints;

(c) has a current vehicle registration;

(d) is maintained in a safe and clean condition; and

(e) contains first aid supplies, including at least antiseptic, bandages, and tweezers.

(3) The provider shall ensure that the safety restraints in each vehicle that transports children are:

(a) appropriate for the age and size of each child who is transported, as required by law;

(b) properly installed; and

(c) in safe condition and working order.

(4) The provider shall ensure that the driver of each vehicle who is transporting children:

(a) is at least 18 years old;

(b) has and carries with them a current, valid driver's license for the type of vehicle being driven;

(c) has with them the emergency contact information outlined in Subsection R381-40-18(8), for each child being transported;

(d) ensures that each child being transported is in an individual safety restraint, as required by law;

(e) ensures that the inside vehicle temperature is between 60 and 85 degrees Fahrenheit;

(f) ensures that each child stay seated while the vehicle is moving;

(g) ensures that the vehicle is locked during transport;

(h) never leaves a child in the vehicle unattended by an adult; and

(i) never leaves the keys in the ignition when not in the driver's seat.

(5) If the provider walks or uses public transportation to transport a child to or from a facility, the provider shall ensure that:

(a) each child being transported has a completed transportation permission form signed by that child's parent;

(b) a caregiver goes with and actively supervises each child;

(c) a caregiver transporting a child has emergency contact information, as outlined in Subsection R381-40-18(8), and a release for each child being transported; and

(d) the caregiver-to-child ratio is maintained.

(6) The provider shall:

(a) have transport liability insurance; or

(b) inform parents in writing that the provider does not have transport liability insurance.

**R381-40-21. Animals.**

(1) The provider shall inform each parent of the kinds of animals allowed at the facility.

(2) The provider shall ensure that there is no animal on the premises that:

(a) has a history of biting even one individual;

(b) has a history of dangerous, attacking, or aggressive behavior; or

(c) is naturally aggressive.

(3) The provider shall ensure that any animal at the facility is clean and free of any obvious disease or health problem that could adversely affect a child.

(4) The provider shall ensure that there is no animal or animal equipment in food preparation or eating areas.

(5) The provider shall ensure that no child assists with the cleaning of any animal or animal cage, pen, or equipment.

(6) The provider shall ensure that each child and staff wash their hands immediately after playing with or touching any reptile or amphibian.

(7) The provider shall ensure that any dog, cat, or ferret that the facility houses have current rabies vaccinations.

(8) The provider shall keep current animal vaccination records on-site for review by OL.

**R381-40-22. Diapering.**

(1) This section applies only to a provider that accepts children who wear diapers.

(2) The provider shall post diapering procedures at each diapering station and ensure that each staff member follows the procedures.

(3) The provider shall ensure that each child's diaper is:

(a) checked at least once every two hours; and

(b) promptly changed when wet or soiled.

(4) The provider shall ensure that a caregiver changes each child's diaper at a diapering station and not on a surface used for any other purpose.

(5) The provider shall ensure that the diapering surface is smooth, waterproof, and in good repair.

(6) The provider shall ensure that a caregiver does not leave any child unattended on the diapering surface.

(7) The provider shall ensure that a caregiver cleans and sanitizes the diapering surface after each diaper change or uses a disposable, waterproof diapering surface that is thrown away after each diaper change.

(8) The provider shall ensure that a caregiver washes their hands after each diaper change.

(9) The provider shall ensure that a caregiver places any wet and soiled disposable diaper:

(a) in a container that has a disposable plastic lining and a tight-fitting lid;

(b) directly in an outdoor garbage container that has a tight-fitting lid; or

(c) in a container that is inaccessible to children.

(10) The provider shall ensure that each indoor container where any wet and soiled diaper is placed is cleaned and sanitized each day.

**R381-40-23. Compliance.**

Any person who violates this rule may be subject to the penalties in Rule R380-600 and Title 26B, Chapter 2, Part 7, Penalties and Investigations.

**KEY: child care facilities, child care, commercial preschool programs**

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