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

**R381-100. Child Care Centers.**

**R381-100-1. 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 child care centers and defines the general procedures and requirements to get and maintain a license to provide child care.

**R381-100-2. 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 the same as defined in Rule R380-600.

(15) "Crib" means an infant's bed with sides to protect them from falling including a bassinet, porta-crib, or play pen.

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

(17) "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.

(18) "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.

(19) "Eligible" means the same 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.

(22) "Experiencing homelessness" means anyone who is lacking a fixed, regular, and adequate nighttime residence.

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

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

(24) "Group size" means the total number of children in a group per room or area.

(25) "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.

(26) "Health care provider" means a licensed health professional, including a physician, dentist, nurse practitioner, or physician's assistant.

(27) "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.

(28) "Infant" means a child who is younger than 12 months old.

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

(30) "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.

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

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

(33) "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.

(34) "OBP" means the same as defined in Rule R380-600.

(35) "OL" means the same as defined in Rule R380-600.

(36) "Older toddler" means a child age 18 through 23 months old.

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

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

(39) "Person" means the same as defined in Rule R380-600.

(40) "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.

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

(42) "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.

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

(44) "Qualifying child" means a child:

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

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

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

(45) "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.

(46) "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;

(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.

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

(48) "School-age child" means a child age five through 12 years old.

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

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

(51) "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.

(52) "Strangulation hazard" means something on which a child's clothes or drawstrings could become caught or something 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.

(53) "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.

(54) "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.

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

(56) "Younger toddler" means a child age 12 through 17 months old.

**R381-100-3. License Required.**

(1) A person shall obtain a license for a child care center from OL if the person provides care:

(a) for direct or indirect compensation;

(b) for each child for less than 24 hours a day;

(c) for five or more unrelated children;

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

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

(f) on an ongoing basis for four or more weeks in a year.

(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 child care center licensee shall comply with Rule R380-600.

**R381-100-4. 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 cook has a current food handler's permit that is available on-site for review;

(c) any cook uses hair restraints and wears clean clothing;

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

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

(f) only necessary staff are present in the kitchen;

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

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

(i) there is a working stem thermometer available to check cooking and hot-hold temperatures; and

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

**R381-100-5. 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.

**R381-100-6. 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 R381-100-6(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 their 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 their 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 younger than five years old 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 or guardian:

(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.

**R381-100-7. 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 center has a qualified director.

(3) The provider shall ensure that the director:

(a) completes at least 20 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; or

(iii) other equivalent credential as approved by OL;

(b) a National Administrator Credential with at least 60 hours of equivalent training as approved by OL;

(c) any bachelor's or higher education degree 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;

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

(e) at least an associate degree in early childhood development or related field.

(5) The provider shall ensure that the director is on duty at the facility for at least 20 hours a week during operating hours and has sufficient freedom from other responsibilities to manage the center and respond to emergencies.

(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 20 hours of child care training each year based on the facility's license date, or at least 1-1/2 hours 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 R381-100-7(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 20 hours of child care training each year, based on the facility's license date, or at least 1-1/2 hours 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 staff member'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 staff member'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 considered eligible by an OBP background check that includes fingerprints.

(14) The provider shall ensure that an individual who provides an Individualized Educational Plan or Individualized Family Service plan services including any 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 R381-70;

(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 R381-100-7 through R381-100-24; and

(b) Subsections R381-100-7(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.

**R381-100-8. 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 individuals 12-17 years old who are only listed as household members, and:

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

(b) pay any required fees; 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 a covered individual to submit a new background check application, fingerprints, and fees 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 their 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 will be 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 provider 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 any of the following reasons:

(a) a pending charge for a felony offense;

(b) any felony conviction;

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

(d) LIS supported findings 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 their background check;

(f) the covered individual refusing to consent to the criminal background check; or

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

(8) OBP may also consider a covered individual not eligible if the individual has been convicted, has pled 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 their 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 in making the decision 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) When a covered individual is no longer associated with the program, the provider shall separate that employee from the program's roster in the online system within five days of the covered individual's separation from the program.

(c) 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) The provider may only allow a covered individual with a pending arrest or criminal charge to access a child when:

(a) OBP has authorized conditional access; and

(b) the provider can demonstrate to OBP that the work arrangement does not pose a threat to the health or safety of any 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.

**R381-100-9. Facility.**

(1) The provider shall ensure that there is at least 35 square feet of indoor space for each child in care, including the provider's or employee's own child.

(2) The provider may include floor space used for furniture, fixtures, or equipment as indoor space per child if the furniture, fixture, or equipment is used:

(a) by children;

(b) for the care of children; or

(c) to store materials for children.

(3) When measuring indoor space for children's use, the provider may not include any:

(a) bathroom;

(b) closet and staff locker;

(c) hallway;

(d) kitchen;

(e) lobby and entryway; and

(f) staff office.

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

(5)(a) 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.

(b) If there is lead-based paint at the facility, the provider shall contact their local health department within five working days and follow required procedures for remediation of the lead hazard.

(6) 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.

(7) 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.

(8) 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.

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

(10) 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.

(11) The provider shall ensure that there is at least one working handwashing sink in each classroom or next to each classroom in any building constructed after July 1, 1997.

(12) The provider shall ensure that in any room where an infant or toddler is cared for has:

(a) one sink that is used exclusively for the preparation of food, bottles, and handwashing before food preparation, and another sink that is used only for handwashing after diapering and nonfood activities; or

(b) one working sink that is used only for handwashing in the room, and bottle and food preparation is done in the kitchen and brought to the infant and toddler area by a non-diapering staff member.

(13) The provider shall ensure that there is at least one working toilet and one working sink for each group of one to 25 children in the center who are two years old and older.

(14) The provider shall ensure that there is a bathroom that provides privacy available for use by any school-age child.

(15) The provider shall ensure that any child outdoors is in an enclosed area, except during offsite activities.

(16) The provider shall ensure that the outdoor area:

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

(b) has at least 40 square feet of space for each child using the area at one time;

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

(d) has shade available to protect any child from excessive sun and heat when in the outdoor area;

(e) is safely accessible to any child; and

(f) the total square footage of the outdoor area accommodates at least one-third of the approved capacity at one time, or is at least 1,600 square feet.

(17) 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.

(18) 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.

(19) 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.

(20) 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.

**R381-100-10. Ratios and Group Size.**

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

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

(b) not exceed the maximum group sizes; and

(c) not exceed the number of children in the caregiver-to-child ratio.

|  |  |  |
| --- | --- | --- |
| TABLE 1 | | |
| Age Group | Caregiver-to-Child Ratio | Maximum Group Size |
| 0-11 months - infant | 1:4 | 8 |
| 12-17 months - younger toddler | 1:4 | 8 |
| 18-23 months - older toddler | 1:5 | 10 |
| 2 years - twos | 1:8 | 16 |
| 3 years - threes | 1:12 | 24 |
| 4 years - fours | 1:15 | 30 |
| 5 years and older - school-age | 1:20 | 40 |

(2) For a mixed-age group of children, the provider shall:

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

(b) not exceed the number of children in the caregiver-to-child ratio;

(c) not exceed the maximum group sizes; and

(d) separate any single-age group that reaches their maximum group size.

(3) For a mixed-age group of children including any infant and toddler, the provider shall ensure that:

(a) an infant is only mixed with a toddler if:

(i) the group has eight or fewer children;

(ii) there are no more than three children younger than two years old in the group with one caregiver; and

(iii) there are at least two caregivers with the group if more than two children who are younger than 18 months old are present and the group has more than four children;

(b) if an older toddler and a two-year-old child are mixed, the provider shall ensure:

(i) there is at least one caregiver for up to seven children; and

(ii) there are at least two caregivers for eight and up to 14 children in the group; and

(c) an older toddler and an older child may only be mixed, except when only mixed with a two-year-old child, when:

(i) the group has eight or fewer children;

(ii) there are no more than three older toddlers in the group; and

(iii) there are at least two caregivers with the group if more than three younger toddlers are present and the group has more than five children.

(4) For a mixed-age group of children, not including any infant and toddler, the provider shall ensure that:

(a) the caregiver-to-child ratio is determined by the age of the oldest child present in the group minus one child of that age group; and

(b) the maximum group size is determined by the age of the oldest child present in the group, minus two children of that same age group.

(5) During nap time, the provider shall ensure that the caregiver-to-child ratio is doubled only if:

(a) each child in the group is at least 18 months old;

(b) each child in the group is in a restful and nonactive state; and

(c) the caregiver supervising the napping children can contact another on-site caregiver without leaving the children unattended.

(6) The provider shall ensure that there are at least two caregivers present when there is only one group of children on the premises and that group has more than eight children, or more than two infants or toddlers.

(7) The provider shall include the provider's and employee's own child age four years old or older in care:

(a) in the group size when the parent of the child is working at the facility; and

(b) in the group size and the caregiver-to-child ratio when the parent of the child is not working at the facility.

(8) 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.

(9) The provider shall ensure that any guest does not count in caregiver-to-child ratios.

(10) OL may exempt a center from maximum group sizes if:

(a) the center has been constructed, licensed, and continuously operated since January 1, 2004;

(b) the caregiver-to-child ratio is maintained; and

(c) the required square footage for each group of children is maintained.

**R381-100-11. Child Supervision and Security.**

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

(a) for children younger than five years old, remaining physically present in the room or area with the children; and

(b) for school-age children, a caregiver can hear the children and is close enough to intervene:

(c) focusing attention on the children and not on caregiver's personal interests;

(d) interacting in-person with the children at least every 15 minutes;

(e) knowing the number of children in their care at any time;

(f) positioning themselves so each child in their assigned group is actively supervised; and

(g) remaining aware of the entire group of children even when interacting with a smaller group or an individual child.

(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, or 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.

(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 their own child.

(6) The provider shall ensure that when video cameras or mirrors are used to supervise napping children:

(a) the napping room is adjacent to a non-napping room;

(b) the staff member moves children who wake up to the non-napping room;

(c) there is a camera or mirror positioned so the staff member can see and hear the child;

(d) there is a staff member in the non-napping room; and

(e) there is an open door without a barrier, including a gate, between the napping room and the non-napping room.

(7) The provider shall ensure that a blanket or other item is not placed over sleeping equipment in a way that prevents the caregiver from seeing the sleeping child.

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

(9) 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;

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

(f) there is written permission from the child's parent if children sign themselves in or out.

(10) 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.

(11) 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.

**R381-100-12. 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 center'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 use 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.

**R381-100-13. 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 any center vehicle any time a child is in care.

(15) 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 highchairs that are used by children have T-shaped safety straps or safety devices that are used when a child is in the chair.

(19) The provider shall ensure that infant walkers with wheels are inaccessible to children.

(20) 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.

**R381-100-14. Emergency Preparedness, Response, and Recovery.**

(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) accommodating a child with a chronic medical condition;

(iii) accommodating any infant and toddler;

(iv) communication with and reunification of families;

(v) continuity of operations;

(vi) evacuation;

(vii) lockdown;

(viii) relocation; and

(ix) 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 center's street address and any emergency numbers, including at least fire, police, and poison control, near each telephone in the center or in an area clearly visible to anyone needing the information.

(3) The provider shall keep first aid supplies in the center, 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 document each fire drill, including:

(a) any problems encountered and remediation;

(b) the date and time of the drill;

(c) the name of the individual supervising the drill;

(d) the number of children participating; and

(e) the total time to complete the evacuation.

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

(7) The provider shall document each disaster drill, including:

(a) any problems encountered and remediation;

(b) the date and time of the drill;

(c) the name of the individual supervising the drill;

(d) the number of children participating; and

(e) the type of disaster, including earthquake, flood, prolonged power or water outage, or tornado;

(8) The provider shall vary the days and times when fire and other disaster drills are held.

(9) The provider shall keep documentation of the previous 12 months of fire and disaster drills on-site for review by OL.

(10) The provider shall:

(a) give each parent a written report on the day of occurrence of each incident, accident, or injury involving their child;

(b) ensure the report has the signatures of the caregivers involved, the center director or director designee, and the individual picking up the child; and

(c) if a school-age child signs themselves out of the center, send a copy of the report to the parent on the day following the occurrence.

(11) If a child is injured and the injury appears serious but not life-threatening, the provider shall submit a critical incident report to OL within one business day and contact the child's parent immediately.

(12) 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.

(13) 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.

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

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

**R381-100-15. 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 clean and sanitize any toy and material used by a child:

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

(b) after being put in a child's mouth and before another child plays with the toy; and

(c) after being contaminated by a body fluid.

(4) 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 if used, washed at least each week or as needed.

(5) The provider shall clean and sanitize each highchair tray before each use.

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

(7) The provider shall clean and sanitize each bathroom surface including each toilet, sink, faucet, toilet and sink handle, and counter each business day.

(8) The provider shall clean and sanitize each potty chair after each use.

(9) The provider shall ensure that toilet paper is accessible and kept in a dispenser that is accessible to each child.

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

(11) The provider shall ensure that each staff member and volunteer washes their hands thoroughly with liquid soap and running water:

(a) after cleaning up or taking out garbage;

(b) after contact with a body fluid;

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

(d) before and after eating meals and snacks or feeding a child;

(e) before handling or preparing food or bottles;

(f) upon arrival; and

(g) when coming in from outdoors.

(12) 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.

(13) The provider shall ensure that each child washes their hands thoroughly with liquid soap and running water:

(a) after contact with a body fluid;

(b) after using the toilet;

(c) before and after eating meals and snacks;

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

(e) upon arrival; and

(f) when coming in from outdoors.

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

(15) 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.

(16) The provider shall ensure that any pacifier, bottle, and nondisposable drinking cup is:

(a) labeled with each child's name or individually identified; and

(b) not shared, or washed and sanitized before being used by another child.

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

(18) 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 center;

(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.

(19) The provider shall ensure that staff take precautions when cleaning any floor, furniture, or other surface contaminated by blood, urine, feces, or vomit, and ensure that, except for diaper changes and toileting accidents, staff cleaning these bodily fluids 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.

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

(21) 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.

(22) 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.

(23) If any staff member or child has an infectious disease or parasite, the provider shall post a notice at the center 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.

(24) To prevent contamination of food, the spread of foodborne illnesses, and other diseases, the provider shall ensure that:

(a) an individual who cares for any diapered child only prepares food for the children in their care, and they do not:

(i) prepare food outside of the room used by any diapered child; or

(ii) prepare food for any other child and adult in the facility;

(b) an individual who prepares food in the kitchen does not help in toileting any child; and

(c) an individual with an infectious disease, or showing symptoms including diarrhea, fever, coughing, or vomiting, does not prepare or serve foods.

**R381-100-16. Food and Nutrition.**

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

(2) If the provider supplies food for children's meals or snacks, the provider shall ensure that:

(a) the meal service meets local health department food service rules;

(b) the foods that are served meet the nutritional requirements of the USDA Child and Adult Care Food Program (CACFP) whether or not the provider participates in the CACFP;

(c) the provider uses the CACFP meal pattern requirements, the standard OL-approved menus, or menus approved by a registered dietitian, and that dietitian approval is noted and dated on the menus, and current within the past five years;

(d) the current week's menu is posted for review by parents and OL; and

(e) if not participating or in good standing with the CACFP, keep a six-week record of foods served at each meal and snack.

(3) The provider shall ensure that the individual who serves food to a child:

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

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

(4) The provider may not place a child's food on a bare table, and shall serve a child's food on a dish, napkin, or sanitary highchair tray, except an individual finger food, including a cracker, that may be placed directly in a child's hand.

(5) If a parent brings food and drink for their 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.

**R381-100-17. 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 their 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 their 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) their 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.

**R381-100-18. 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 daily activities include outdoor play as weather and air quality allow.

(3) 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.

(4) For each preschool and school-age group, the provider shall post a daily schedule that includes:

(a) activities that support a child's healthy development; and

(b) the times activities occur including at least meal, snack, nap or rest, and outdoor play times.

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

(6) 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:

(a) not allowed for a child zero to 17 months old;

(b) limited for a child 18 months to four years old to one hour a day, or five hours a week with a maximum screen time of two hours per activity; and

(c) planned to address the needs of a child five to 12 years old.

(7) 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 their child uses the pool.

(8) 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.

(9) 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.

**R381-100-19. Play Equipment.**

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

(2) The provider shall ensure that the highest designated play surface on any stationary play equipment used by infants or toddlers does not exceed three feet in height.

(3) The provider shall ensure that any swings used by an infants or toddler has an enclosed seat.

(4) The provider shall ensure that any stationary play equipment has a surrounding use zone that extends from the outermost edge of the equipment and that, with the exception of a swing, stationary play equipment that is:

(a) used by an infant or toddler has at least a three-foot use zone if any designated play surface is higher than 18 inches;

(b) used by a preschooler has at least a six-foot use zone if any designated play surface is higher than 20 inches; and

(c) used by a school-age child has at least a six-foot use zone if any designated play surface is higher than 30 inches.

(5) 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.

(6) 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.

(7) The provider shall ensure that the use zone for a multi-axis swing, including a tire swing, extends:

(a) at least the measurement of the suspending rope or chain plus three feet, if the swing is used by infants or toddlers; or

(b) at least the measurement of the suspending rope or chain plus six feet, if the swing is used by preschoolers or school-age children.

(8) 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.

(9) 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, and the rocker is used by preschoolers or school-age children.

(10) 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.

(11) Unless prohibited in Subsection R381-100-19(10), the provider shall ensure that the use zones of play equipment only overlap when:

(a) the equipment is used by an infant or toddler, and there is at least three feet between each piece of equipment; or

(b) the equipment is used by a preschooler or school-age child and there is at least six feet between each piece of equipment if the designated play surface is 30 inches or lower, or there is at least nine feet between each piece of equipment if the designated play surface is higher than 30 inches.

(12) 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.

(13) 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.

(14) 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 2.

(b) the cushioning is periodically checked for compaction and if compacted, loosened to the depth listed in Table 2; and

(c) if the material cannot be loosened to the depth listed in Table 2 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 2  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" |

(15) 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 3;

(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.

|  |  |  |  |
| --- | --- | --- | --- |
| TABLE 3  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 |

(16) 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.

(17) 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.

(18) The provider shall ensure that a play equipment platform that is more than:

(a) 18 inches above the floor or ground and used by an infant or toddler has a protective barrier that is at least 24 inches high;

(b) 30 inches above the floor or ground and used by a preschooler has a protective barrier that is at least 29 inches high; and

(c) 48 inches above the floor or ground and used by a school-age child has a protective barrier that is at least 38 inches high.

(19) 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.

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

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

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

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

(24) 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.

(25) 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.

**R381-100-20. Transportation.**

(1) For each child that the provider 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 R381-100-18(9) 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 their parent;

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

(c) a caregiver transporting a child has emergency contact information outlined in Subsection R381-100-18(9) 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.

**R381-100-21. 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 younger than five years old assists with the cleaning of any animal or animal cage, pen, or equipment.

(6) If a school-age child helps in the cleaning of animals or animal equipment, the provider shall ensure that the child washes their hands immediately after cleaning the animal or equipment.

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

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

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

**R381-100-22. Rest and Sleep.**

(1) The provider shall offer a child in care a daily opportunity for rest or sleep in an environment with:

(a) a low noise level;

(b) freedom from distractions; and

(c) subdued lighting.

(2) The provider may not schedule a nap or rest time for more than two hours a day.

(3) The provider shall use a separate crib, cot, mat, or other sleeping equipment for each child during nap times.

(4) The provider shall keep sleeping equipment in good repair, and ensure that any mat and mattress has smooth, waterproof surfaces.

(5) The provider shall ensure that each crib:

(a) does not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child;

(b) has a tight-fitting mattress;

(c) has at least 20 inches from the top of the mattress to the top of the crib rail, or at least 12 inches from the top of the mattress to the top of the crib rail if the child using the crib cannot sit up without assistance;

(d) has documentation from the manufacturer or retailer stating that the crib was built after June 28, 2011, or that the crib is certified if the crib was manufactured before that date; and

(e) has slats spaced no more than 2-3/8 inches apart.

(6) The provider shall place sleeping equipment, including a crib, cot, and mat at least two feet apart when they are in use.

(7) The provider shall ensure that sleeping equipment does not block any exit.

(8) The provider shall make a sheet and blanket, or acceptable alternative, available to each child 12 months or older during nap time, and ensure that each item is:

(a) clearly assigned to one child;

(b) laundered as needed, but at least once a week, and before use by another child; and

(c) stored separately from other children's bedding.

(9) The provider shall clean and sanitize sleeping equipment, that is not clearly assigned to and used by an individual child, before each use.

(10) The provider shall:

(a) clean and sanitize sleeping equipment before each use; or

(b) store sleeping equipment in a way the surfaces children sleep on do not touch each other.

**R381-100-23. 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 as soon as a sleeping child awakens;

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

(c) 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 each diapering station is equipped with railings to prevent a child from falling when being diapered.

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

(8) 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.

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

(10) 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.

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

(12) If cloth diapers are used, the provider shall:

(a) not rinse cloth diapers at the facility; and

(b)(i) place cloth diapers directly into a leakproof container that is inaccessible to any child and labeled with the child's name; or

(ii) place the cloth diapers in a leakproof diapering service container.

**R381-100-24. Infant and Toddler Care.**

(1) This section only applies to a provider that accepts an infant or toddler.

(2) The provider shall ensure that each awake infant and toddler receives positive physical and verbal interaction with a caregiver at least once every 15 minutes.

(3) To stimulate their healthy development, the provider shall ensure that infants receive daily interactions with adults, including on the ground interaction and closely supervised time spent in the prone position for infants less than six months old.

(4) The provider shall ensure that any infant and toddler area is not used to pass through or access any other indoor or outdoor area.

(5) The provider shall ensure that an infant and toddler plays in the same enclosed outdoor space with an older child only when there are eight or fewer children in the group.

(6) The provider shall ensure that a caregiver responds promptly to an infant and toddler who is in emotional distress due to any conditions including:

(a) a wet or soiled diaper;

(b) fatigue;

(c) fear;

(d) hunger;

(e) illness; or

(f) teething.

(7) To stimulate healthy development, the provider shall make safe toys available and accessible for each infant and toddler to engage in play.

(8) The provider shall ensure that any mobile infant and toddler has freedom of movement in a safe area.

(9) The provider may not confine an awake infant or toddler in any piece of equipment, including a swing, high chair, crib, playpen, or other similar piece of equipment for more than 30 minutes.

(10) The provider shall ensure that only one infant or toddler occupies any one piece of equipment at a time, unless the equipment has individual seats for more than one child.

(11) The provider shall make any object made of styrofoam inaccessible to any infant and toddler.

(12) The provider shall allow each infant and toddler to eat and sleep on their own schedule.

(13) The provider shall ensure that baby food, formula, or breast milk that is brought from home for an individual child's use is:

(a) labeled with the child's name;

(b) labeled with the date and time of preparation or opening of the container, including a jar of baby food;

(c) kept refrigerated if needed; and

(d) discarded within 24 hours of preparation or opening, except for unprepared powdered formula or dry food.

(14) If an infant cannot sit upright and hold their own bottle, the provider shall ensure that a caregiver is within arm's reach of each infant during bottle feeding and that a bottle is not propped.

(15) The provider shall ensure that the caregiver swirls and tests warm bottles for temperature before feeding to a child.

(16) The provider shall discard formula and milk, including breast milk, after feeding or within two hours of starting a feeding.

(17) The provider shall ensure that a caregiver cuts solid food for:

(a) an infant into pieces no larger than 1/4 inch in diameter; and

(b) a toddler into pieces no larger than 1/2 inch in diameter.

(18) The provider shall ensure that each infant sleeps in equipment designed for sleep including a crib, bassinet, porta-crib or playpen, and that an infant is not placed to sleep on a mat, cot, pillow, bouncer, swing, car seat, or other similar piece of equipment.

(19) The provider shall place an infant on their back for sleeping unless there is documentation from a health care provider requiring a different sleep position.

(20) The provider may not place any soft toy, loose blanket, or other object in sleep equipment while in use by a sleeping infant.

(21) The provider shall document each infant's eating and sleeping patterns each day the infant is at the facility, and shall ensure the record:

(a) is completed within an hour of each feeding or nap; and

(b) includes the infant's name, the food and beverages eaten, and the times the infant slept.

(22) Within an hour of each infant or toddler's diaper change, the provider shall record:

(a) the infant or toddler's name;

(b) the time of the diaper change; and

(c) whether the diaper was dry, wet, soiled, or both.

(23) The provider shall maintain on-site for review by OL a six-week record of:

(a) the eating and sleeping patterns for each infant; and

(b) the diaper changes for each infant and toddler.

**R381-100-25. 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, child care centers**

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