

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
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The *Utah State Bulletin (Bulletin)* is an official noticing publication of the executive branch of Utah state government. The Division of Administrative Rules, part of the Department of Administrative Services, produces the *Bulletin* under authority of Section 63G-3-402.

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Inquiries concerning the substance or applicability of an administrative rule that appears in the *Bulletin* should be addressed to the contact person for the rule. Questions about the *Bulletin* or the rulemaking process may be addressed to: Division of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3764. Additional rulemaking information and electronic versions of all administrative rule publications are available at <http://www.rules.utah.gov/>.

The information in this *Bulletin* is summarized in the *Utah State Digest (Digest)* of the same volume and issue number. The *Digest* is available by e-mail subscription or online. Visit <http://www.rules.utah.gov/publicat/digest.htm> for additional information.

Division of Administrative Rules, Salt Lake City 84114

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# EXECUTIVE DOCUMENTS

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Under authority granted by the Utah Constitution and various federal and state statutes, the Governor periodically issues **EXECUTIVE DOCUMENTS**, which can be categorized as either Executive Orders, Proclamations, and Declarations. Executive Orders set policy for the executive branch; create boards and commissions; provide for the transfer of authority; or otherwise interpret, implement, or give administrative effect to a provision of the Constitution, state law or executive policy. Proclamations call special or extraordinary legislative sessions; designate classes of cities; publish states-of-emergency; promulgate other official formal public announcements or functions; or publicly avow or cause certain matters of state government to be made generally known. Declarations designate special days, weeks or other time periods; call attention to or recognize people, groups, organizations, functions, or similar actions having a public purpose; or invoke specific legislative purposes (such as the declaration of an agricultural disaster).

The Governor's Office staff files **EXECUTIVE DOCUMENTS** that have legal effect with the Division of Administrative Rules for publication and distribution.

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## **Governor's Executive Order EO/2015/001: Implementing the Utah Conservation Plan For Greater Sage-Grouse**

### EXECUTIVE ORDER

#### Implementing the Utah Conservation Plan For Greater Sage-Grouse

**WHEREAS**, the proper stewardship of Greater Sage-Grouse by wildlife managers, private landowners, ranchers, federal land management agencies and others, has caused the State of Utah to currently enjoy robust populations of Greater Sage-Grouse; and

**WHEREAS**, the State of Utah has management authority over Greater Sage-Grouse populations in Utah; and

**WHEREAS**, in 2010, the United States Fish and Wildlife Service determined that listing the Greater Sage-Grouse as a threatened or endangered species under the provisions of the Endangered Species Act was "warranted" over its entire 11 state range, including the naturally fragmented populations in Utah, but also that the listing was "precluded" by higher priorities; and

**WHEREAS**, the listing of the Greater Sage-Grouse would have a significant adverse effect on the economy, custom and culture of the State of Utah; and

**WHEREAS**, the U.S. Fish and Wildlife Service agreed, as part of the settlement of litigation, to determine whether the listing is warranted or not warranted by September 30, 2015; and

**WHEREAS**, in December 2011, Ken Salazar, Secretary of the Interior, invited Utah and the 10 other western states within the range of the Greater Sage-Grouse to develop state-specific programs to conserve Greater Sage-Grouse, and thereby preclude the need to list the species; and

**WHEREAS**, the Utah State Legislature and state agencies have dedicated significant state resources to the conservation of Greater Sage-Grouse in Utah, beginning in the mid 1990s; and

**WHEREAS**, the State of Utah, in 1996, through a cooperative agreement with Utah State University Extension, has facilitated an on-going community-based conservation program that has continuously engaged thousands of Utah stakeholders in sage-grouse Local Working Groups to develop, implement, and evaluate the effectiveness of local conservation actions based on knowledge generated from long-term research which have increased both the sage-grouse habitat base and populations; and

**WHEREAS**, the State of Utah, through researchers at Utah State University and Brigham Young University, has assembled and continues to add to a database of knowledge and research concerning the Greater Sage-Grouse that spans the last 20 years, which database is the best and only consistently reliable data set within the range of the species; and

**WHEREAS**, this research has led to the publication of numerous scholarly, peer-reviewed scientific papers, which have enriched and focused scientific knowledge about the bird; and

**WHEREAS**, based on these data sets, the State completed and implemented plans for the conservation of sage-grouse in 2005, 2009, and most recently, completed an updated Conservation Plan for Greater Sage-Grouse (Conservation Plan), as requested by Secretary Salazar, in 2013, which Plan is based upon the best scientific and commercial information available; and

**WHEREAS**, the U.S. Fish and Wildlife Service issued the final report of the Conservation Objectives Team (COT) in early 2013, which Report creates Priority Areas of Conservation (PAC) to focus conservation efforts, and contains recommendations to address each of the threats to the species mentioned in the Service's 2010 listing decision; and

**WHEREAS**, the State's Conservation Plan responds to the COT Report by focusing conservation efforts upon identified habitat and habitat-improvement areas within 11 specifically defined Sage-Grouse Management Areas (SGMAs), which correspond to the PAC identified in the COT Report, and which SGMAs protect about 94% of the birds in Utah; and

**WHEREAS**, the State's Conservation Plan contains five specific, measurable goals relating to population numbers and habitat, all of which have been met the first year, and is designed to address and ameliorate the threats to the species that were identified in the COT Report; and

**WHEREAS**, the Bureau of Land Management and the U.S. Forest Service have proposed various amendments to agency land management plans designed to promote the conservation of the species in a balanced manner, and the process to finalize those amendments is expected to conclude in early 2015; and

**WHEREAS**, the State, Bureau of Land Management, U.S. Forest Service and U.S. Fish and Wildlife Service have cooperatively created population and habitat triggers for each of the 11 SGMAs, which triggers will advise the need to consider future adjustments to management within each SGMA; and

**WHEREAS**, Utah is part of both the Great Basin and the Rocky Mountain Regions identified by the Bureau of Land Management and U.S. Forest Service as part of their sage-grouse plan amendment processes; and

**WHEREAS**, the Bureau of Land Management and the U.S. Forest Service are working to find solutions to the principal threat within each Region, which has been identified as wildfire and the resulting invasion of noxious or undesirable plant invasive species in burned areas in the Great Basin Region, and energy development in the Rocky Mountain Region; and

**WHEREAS**, the State has engaged in a detailed examination of the implementation of its Conservation Plan in relation to the threats identified in the COT Report, and has identified the actual scope and extent of the identified threats within the State, including the two principal threats identified for each Region; and

**WHEREAS**, more than 75% of all wildfires in Utah are suppressed before they exceed 10 acres, and 99.8% are suppressed before they exceed 10,000 acres; and

**WHEREAS**, in December 2013 the State finalized an overall review of wildfire suppression and management, and approved a wildfire plan, entitled the "Catastrophic Wildfire Reduction Strategy;" which Strategy established the protection of sage-grouse habitat as a priority; and

**WHEREAS**, the State has amended its Forestry Action Plan to include the SGMAs as part of the prioritization of forestry projects to reduce fuel load and the potential for large fires; and

**WHEREAS**, the State of Utah, through the Division of Forestry, Fire and State Lands, has executed a "Master Cooperative Wildland Fire Management and Stafford Act Response Agreement" (Agreement) in cooperation with the Bureau of Land Management, the U.S. Forest Service, and the U.S. Fish and Wildlife Service, among others; and

**WHEREAS**, the annual Operating Plan under the provisions of the Agreement provides for "Special Management Considerations" which allows fire suppression activities to be consistent with pre-planned objectives for an area; and

**WHEREAS**, under the terms of the Agreement, the State is responsible for the coordination of the counties' initial fire-attack capabilities "for the purpose of coordinated wildland fire management services within and beyond the boundaries of the State of Utah;" and

**WHEREAS**, pursuant to Utah Code, uncontrolled fire on unincorporated land is a "public nuisance," requiring the respective counties and the Division of Forestry, Fire and State Lands to abate the public nuisance on unincorporated private and state lands within the State; and

**WHEREAS**, fuel-treatment projects have been demonstrated to be very effective in stopping or significantly slowing the movement of fires, so that suppression activities can become effective more quickly, while also improving habitat for the benefit of the Greater Sage-Grouse and other species; and

**WHEREAS**, the State has identified specific pre-suppression fuel-treatment and habitat- improvement areas designed to maximize protections for the Greater Sage-Grouse habitat; and

**WHEREAS**, the State's SGMAs contain minimal amounts of oil and gas development and mining activity, and all such development and activities are properly authorized by and managed under federal or state permit; and

**WHEREAS**, the State collects a conservation fee from the production of oil and gas to implement the State's permitting program, and this fee collection schedule has been in place for over 10 years; and

**WHEREAS**, some of these fees are allocated to employ biologists within the Division of Wildlife Resources dedicated to minimize the effects of oil and gas operations upon wildlife, specifically including the Greater Sage-Grouse; and

**WHEREAS**, these coordination efforts have directly led to modifications to oil and gas projects to the benefit of Greater Sage-Grouse; and

**WHEREAS**, the U.S. Fish and Wildlife Service has indicated the State's Conservation Plan will be evaluated against the Service's Policy for the Evaluation of Conservation Efforts (PECE); and

**WHEREAS**, PECE requires a determination of the certainty of implementation and the certainty of effect of the conservation efforts; and

**WHEREAS**, a directive from the chief executive to state agencies has value in focusing the efforts and priorities of the state agencies toward coordinated conservation of the species, in order to satisfy the Service's PECE evaluation; and

**WHEREAS**, to reinforce and restate the State's longstanding commitment to the conservation of Greater Sage-Grouse;

**NOW, THEREFORE**, by virtue of the authority vested in me by the Constitution and laws of the State, and to the extent such actions are consistent with the statutory obligations and authority of each individual state agency, including those obligations found in Title 63L, Chapter 3 of the Utah Code, otherwise cited as the Private Property Protection Act, I, Gary R. Herbert, Governor of the State of Utah, do hereby issue this Executive Order providing as follows:

1. State agencies whose operations affect Greater Sage-Grouse (State Agencies) will coordinate implementation of the Conservation Plan, as it may be amended by its own terms, with the Public Lands Policy Coordinating Office, Office of the Governor. The Division of Wildlife Resources will assist the Public Lands Policy Coordinating Office in this effort.

2. Management and policy decisions by State Agencies will maintain, improve and enhance Greater Sage-Grouse habitat, opportunity areas and the species' populations within the 11 SGMAs established by the Conservation Plan. It is expected that activities and facilities existing within the SGMAs prior to adoption of the Conservation Plan will be allowed to continue.

3. State Agencies will work with federal agencies, including the Bureau of Land Management, U.S. Forest Service, U.S. Fish and Wildlife Service and the Natural Resources Conservation Service, to identify the continuing conservation needs of Greater Sage-Grouse, and to seek necessary actions by the federal agencies to assure implementation of the conservation strategies, objectives and goals identified in the Conservation Plan.

4. Funding, legal assurance contracts, mapping, scientific research, habitat enhancement, improvement and reclamation efforts and other proactive efforts to assure viability of Greater Sage-Grouse in Utah will be focused and prioritized to take place within or near SGMAs, or be designed to facilitate implementation of the State's Conservation Plan.

5. Existing rights established on private, county, city, state and federal lands should be recognized and respected.

6. On-the-ground enhancements, monitoring and ongoing planning relative to Greater Sage-Grouse populations and habitat shall be coordinated through the existing Local Working Groups, whenever possible, and through the Division of Wildlife Resources.

7. The Division of Oil, Gas and Mining shall coordinate with the Division of Wildlife Resources on all regulatory actions proposed for issuance by the Division of Oil Gas and Mining within the SGMAs to assure compliance with the requirements of the State's Conservation Plan. The Division of Oil, Gas and Mining shall implement the recommendations of Wildlife Resources, subject to the statutory requirements to avoid waste of the mineral resource and protect correlative rights on private property during resource production. Both Divisions shall report the results of the coordination annually.

8. The Division of Parks and Recreation and the Office of Outdoor Recreation shall coordinate with the Division of Wildlife Resources to assure that recreational activities or recreational facilities sponsored or supported by each agency within the SGMAs will comply with the State's Conservation Plan.

9. The Departments of Natural Resources and Agriculture and Food shall coordinate all projects to improve, restore or enhance lands within the SGMAs with the Division of Wildlife Resources to implement the provisions of the State's Conservation Plan. The Departments should coordinate these efforts with the Utah Conservation Commission, and the relevant Local Working Groups. The Departments shall prioritize Greater Sage-Grouse habitat or opportunity areas within the SGMAs, to the maximum extent possible under the relevant funding authority. No state funding shall be approved for projects that materially eliminate sagebrush within SGMAs without consulting the Division of Wildlife Resources, and a finding that such a project will have a net conservation gain for the species.

10. The Department of Natural Resources shall expedite the completion and implementation of mitigation standards and conditions, including a conservation banking program, based upon such terms as the Department believes necessary. The Department should consult with interested parties as necessary.

11. The Division of Forestry, Fire, and State Lands will prioritize fuels-mitigation activities within or near SGMAs, and in consultation with federal land-management agencies, include SGMAs as a priority during pre-attack planning, second only to the protection of human life and structures. In cooperation with all other federal and local fire-suppression partners throughout the State, the Division will effectuate the pre-attack plans, subject to the need to adjust based on local tactical conditions at the time of a fire or series of fires.

12. The Department of Transportation will coordinate its plans for new or upgraded facilities and roads within SGMAs with the Division of Wildlife Resources to implement the provisions of the State's Conservation Plan. Existing roads and facilities shall not be subject to this review.

13. The Division of Wildlife Resources shall keep a record of all its consultations related to the proposed siting of activities or projects within SGMAs.

14. State Agencies shall coordinate the collection and storage of digital Greater Sage-Grouse habitat and population information, and work toward useful digital platforms to make the information accessible to the federal partners in Greater Sage-Grouse conservation, and the public, subject to the requirements of the Utah Government Records Access and Management Act (Utah Code Title 63G, Chapter 2). The Division of Wildlife Resources shall head the effort.

15. State Agencies shall work collaboratively with local governments and private landowners to maintain, improve and enhance Greater Sage-Grouse habitats and populations in a manner consistent with the provision of the Utah Conservation Plan and this Executive Order. The Division of Wildlife Resources shall keep track of and participate, or cause the participation by Local Working Group members, in relevant local government meetings affecting the land within SGMAs, to assure that the provisions of the Conservation Plan are presented for consideration by the relevant local authority.



16. State Agencies shall strive to maintain consistency with the items outlined in this Executive Order and the Utah Conservation Plan, subject to any necessary adjustments based upon local conditions and limitations, recognizing the objective of minimizing future disturbance within SGMAs by locating proposed disturbance in areas already disturbed or naturally unsuitable.

17. The Public Lands Policy Coordinating Office and the Division of Wildlife Resources will reevaluate the protective stipulations outlined in the State's Conservation Plan periodically as new science, information and data emerge regarding the SGMAs and the habitats and behaviors of the Greater Sage-Grouse.

18. State Agencies shall report to the Public Lands Policy Coordinating Office within 60 days after this Order is signed and annually thereafter detailing their actions to comply with this Executive Order.

19. This Executive Order shall remain in effect until June 30, 2017, at which time this order will expire and all provisions of this Executive Order shall be reevaluated.

**IN WITNESS WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah this 10th day of February, 2015.

(State Seal)

**Gary R. Herbert**  
**Governor**

ATTEST:

**Spencer Cox**  
**Lieutenant Governor**

EO/2015/001

**End of the Executive Documents Section**



## NOTICES OF PROPOSED RULES

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A state agency may file a **PROPOSED RULE** when it determines the need for a substantive change to an existing rule. With a **NOTICE OF PROPOSED RULE**, an agency may create a new rule, amend an existing rule, repeal an existing rule, or repeal an existing rule and reenact a new rule. Filings received between February 03, 2015, 12:00 a.m., and February 17, 2015, 11:59 p.m. are included in this, the March 01, 2015, issue of the *Utah State Bulletin*.

In this publication, each **PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **PROPOSED RULE** is usually printed. New rules or additions made to existing rules are underlined (example). Deletions made to existing rules are struck out with brackets surrounding them (~~example~~). Rules being repealed are completely struck out. A row of dots in the text between paragraphs (. . . . .) indicates that unaffected text from within a section was removed to conserve space. Unaffected sections are not usually printed. If a **PROPOSED RULE** is too long to print, the Division of Administrative Rules may include only the **RULE ANALYSIS**. A copy of each rule that is too long to print is available from the filing agency or from the Division of Administrative Rules.

The law requires that an agency accept public comment on **PROPOSED RULES** published in this issue of the *Utah State Bulletin* until at least March 31, 2015. The agency may accept comment beyond this date and will indicate the last day the agency will accept comment in the **RULE ANALYSIS**. The agency may also hold public hearings. Additionally, citizens or organizations may request the agency hold a hearing on a specific **PROPOSED RULE**. Section 63G-3-302 requires that a hearing request be received by the agency proposing the rule "in writing not more than 15 days after the publication date of the proposed rule."

From the end of the public comment period through June 29, 2015, the agency may notify the Division of Administrative Rules that it wants to make the **PROPOSED RULE** effective. The agency sets the effective date. The date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date of this issue of the *Utah State Bulletin*. Alternatively, the agency may file a **CHANGE IN PROPOSED RULE** in response to comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE OF A CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** lapses.

The public, interest groups, and governmental agencies are invited to review and comment on **PROPOSED RULES**. *Comment may be directed to the contact person identified on the **RULE ANALYSIS** for each rule.*

**PROPOSED RULES** are governed by Section 63G-3-301, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5a, R15-4-9, and R15-4-10.

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**The Proposed Rules Begin on the Following Page**

## Auditor, Administration

**R123-6**

## Allocation of Money in the Property Tax Valuation Agency Fund

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 39136

FILED: 02/09/2015

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this amendment is to clarify calculation for disbursement under this rule.

**SUMMARY OF THE RULE OR CHANGE:** The changes are to clarify calculation for disbursement, specifically the "...amount calculated when multiplying the county's Proposed Tax Rate Value (as calculated by the Tax Commission) by the portion of their combined rate that exceeds the mean rate".

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 59-2-1603

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** No anticipated costs or savings are expected. This change simply clarifies the calculation for disbursement.
- ◆ **LOCAL GOVERNMENTS:** No anticipated costs or savings are expected. This change simply clarifies the calculation for disbursement.
- ◆ **SMALL BUSINESSES:** No anticipated costs or savings are expected. This change simply clarifies the calculation for disbursement.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No anticipated costs or savings are expected. This change simply clarifies the calculation for disbursement.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There will be no compliance cost because this amendment simply clarifies the calculation for disbursement.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There are no anticipated affects that the rule will have on businesses. The amended simply clarifies the calculation for disbursement.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

AUDITOR  
ADMINISTRATION  
ROOM E310 EAST BUILDING  
420 N STATE ST

SALT LAKE CITY, UT 84114-2310  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Nicole Alder by phone at 801-538-3240, or by Internet E-mail at nicolealder@utah.gov
- ◆ Paul Tonks by phone at 801-538-9501, or by Internet E-mail at ptonks@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2015**

**THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2015**

**AUTHORIZED BY: Van Christensen, Director**

**R123. Auditor, Administration.****R123-6. Allocation of Money in the Property Tax Valuation Agency Fund.****R123-6-1. Authority.**

As required by Section 59-2-1603, this rule provides the formula for disbursing monies from the property tax valuation agency fund.

**R123-6-2. Definitions.**

1. "Combined levy" means the sum of the local levy and the multi-county levy.
2. "Local levy" means a property tax levied in accordance with Utah Code 59-2-1602(4).
3. "Multi-county levy" means a property tax levied in accordance with Utah Code 59-2-1602(2).
4. "Fund" means the Property Tax Valuation Agency Fund created in Utah Code 59-2-1602.

**R123-6-3. Disbursements.**

1. Subject to subsection (2), the disbursement of monies held in the fund shall be determined based on the following:
  - a. Fourth, fifth, or sixth class counties whose respective combined levy exceeds the mean of the combined levies of all counties shall receive an amount from the fund equal to 50% of the amount calculated when multiplying the county's Proposed Tax Rate Value (as calculated by USTC) by the portion of their combined rate that exceeds the mean rate;~~[monies collected by the county in excess of that mean rate;]~~ and
  - b. a sixth class county shall not receive less than \$30,000 annually from the fund.
2. If available monies held in the fund are not sufficient to cover amounts calculated in subsection (1) the disbursement shall be reduced on a pro-rata basis.
3. The State Auditor shall authorize these disbursements on an annual basis.

**KEY: counties, property tax**

**Date of Enactment or Last Substantive Amendment: [November 28, 2014]2015**

**Authorizing, and Implemented or Interpreted Law: 59-2-1603**

**Commerce, Administration**  
**R151-4-109**  
**Extension of Time and Continuance of**  
**Hearing**

**NOTICE OF PROPOSED RULE**  
 (Amendment)  
 DAR FILE NO.: 39144  
 FILED: 02/17/2015

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this amendment is to provide additional flexibility when an extension of time or continuance of hearing is warranted.

**SUMMARY OF THE RULE OR CHANGE:** A hearing may be continued to accommodate the schedule of the board or commission that is designated to act as the fact-finder. If other extenuating circumstances exist to justify a continuance, the presiding officer may file a request with the Executive Director.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 13-1-6 and Subsection 63G-4-102(6)

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** This amendment introduces some flexibility into an existing rule governing the time frame in which an administrative proceeding is required to be concluded. No fiscal impact to the state budget is anticipated.
- ◆ **LOCAL GOVERNMENTS:** Local governments are not required to comply with or enforce the rules governing administrative proceedings before the Department of Commerce. No fiscal impact to local government is anticipated.
- ◆ **SMALL BUSINESSES:** Small businesses will benefit from having more flexibility in the scheduling of hearings. However, no fiscal impact to small businesses is anticipated.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Affected persons will benefit from having more flexibility in the scheduling of hearings. However, no fiscal impact is anticipated.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Affected persons will benefit from having more flexibility in the scheduling of hearings. However, no compliance costs will result.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** As stated in the rule analysis, this amendment allows a presiding officer to schedule an administrative hearing

according to the availability of the board or commission that is designated to act as the finder of fact. No fiscal impact to businesses is anticipated.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

COMMERCE  
 ADMINISTRATION  
 HEBER M WELLS BLDG  
 160 E 300 S  
 SALT LAKE CITY, UT 84111-2316  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Jennie Jonsson by phone at 801-530-6706, by FAX at 801-526-4387, or by Internet E-mail at [jjonsson@utah.gov](mailto:jjonsson@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2015

AUTHORIZED BY: Thomas Brady, Deputy Director

**R151. Commerce, Administration.**

**R151-4. Department of Commerce Administrative Procedures Act Rule.**

**R151-4-109. Extension of Time and Continuance of Hearing.**

(1) When ruling on a motion or request for extension of time or continuance of a hearing, the presiding officer shall consider:

- (a) whether there is good cause for granting the extension or continuance;
- (b) the number of extensions or continuances the requesting party has already received;
- (c) whether the extension or continuance will work a significant hardship upon the other party;
- (d) whether the extension or continuance will be prejudicial to the health, safety or welfare of the public; and
- (e) whether the other party objects to the extension or continuance.

(2)(a) Except as provided in R151-4-109(2)(b), an extension of a time period or a continuance of a hearing may not result in the hearing being concluded more than 240 calendar days after the day on which:

- (i) the notice of agency action was issued; or
- (ii) the initial decision with respect to a request for agency action was issued.

(b) Notwithstanding R151-4-109(2)(a), an extension of a time period or a continuance may exceed the time restriction in R151-4-109(2)(a) only if:

- (i)(A) a party provides an affidavit or certificate signed by a licensed physician verifying that an illness of the party, the party's counsel, or a necessary witness precludes the presence of the party, the party's counsel, or a necessary witness at the hearing;

(B) counsel for a party withdraws shortly before the final hearing, unless the presiding officer finds the withdrawal was for the

purpose of delaying the hearing, in which case the hearing will go forward with or without counsel;[~~or~~]

(C) a parallel criminal proceeding or investigation exists based on facts at issue in the administrative proceeding, in which case the continuance must address the expiration of the continuance upon the conclusion of the criminal proceeding; or

(D) the board or commission designated to act as the fact-finder at hearing is unavailable to meet on a date that:

(I) allows the parties a reasonable period of time for discovery, motion practice, or hearing preparation; and

(II) falls within the 240-day deadline for resolution; and

(ii) the presiding officer finds that injustice would result from failing to grant the extension or continuance.

(c)(i) If the presiding officer considers that extenuating circumstances not contemplated in R151-4-109(2)(b) justify a continuance beyond the 240-day deadline, the presiding officer shall file a written request for continuance with the Executive Director.

(ii) A party may not directly petition the Executive Director for a continuance.

(iii) The Executive Director's decision on the presiding officer's request for continuance shall be issued on an interlocutory basis, not subject to a request for reconsideration or judicial review, until after a final order on the merits is issued.

(e)(d) The failure to conclude a hearing within the required time period is not a basis for dismissal.

(3) The presiding officer may not grant an extension of time or continuance that is not authorized by statute or rule.

**KEY: administrative procedures, adjudicative proceedings, government hearings**

**Date of Enactment or Last Substantive Amendment: [~~August 21, 2012~~2015**

**Authorizing, and Implemented or Interpreted Law: 13-1-6; 63G-4-102(6)**

## Commerce, Occupational and Professional Licensing **R156-31b** Nurse Practice Act Rule

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39132

FILED: 02/09/2015

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The Board of Nursing and Division of Occupational and Professional Licensing are proposing amendments to: 1) clarify the distinction, by definition, between a licensed practical nurse (LPN) and an unlicensed practical nurse (PN); 2) standardize terminology through the rule related to the nursing licensure examinations consistent with national norms; 3) clarify the licensure process for LPN and registered nurse (RN) applicants who hold licensure in

another multistate compact licensure state; 4) clarify who may supervise clinical practice hours for an APRN (advanced practice registered nurse) specializing in psychiatric mental health nursing; 5) clarify the expectations for limited-time approval of non-accredited nursing programs; and 6) clarify the expectations for communication with the Board for non-accredited nursing programs.

SUMMARY OF THE RULE OR CHANGE: In Section R156-31b-102, a definition for a practical nurse (PN) is added. PN is used to describe nurses who have not yet been licensed as practical nurses. In Section R156-31b-301a, references to pre-licensure education programs for practical nurses and references to the licensure examination for practical nurses are updated to nationally recognized terminology. The licensure process for practical nurses who hold an interstate compact license, when they establish home state residency in Utah, is clarified. In Section R156-31b-301b, references to the licensure examination for registered nurses are updated to nationally recognized terminology. The licensure process for registered nurses who hold an interstate compact license, when they establish home state residence in Utah, is clarified. In Section R156-31b-301c, proposed amendments clarify the requirements for supervision of APRNs completing their supervised clinical practice hours. In Section R156-31b-602, proposed amendments establish an expectation that nursing education programs with limited-time approval achieve accreditation within five years of receiving candidate or applicant status with their accrediting body. Processes are outlined for programs that: 1) receive notification that the accreditation status is in jeopardy; 2) fail to achieve accreditation after a site visit; or 3) lost accreditation. The proposed amendments clearly describe that a program which has exhausted all limited-time approval options must cease enrollment and close. In Section R156-31b-603, the proposed amendments clarify that programs with limited-time approval must maintain, at a minimum, annual communication with the Board. In addition, the format for the annual communication must be Board-approved.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-31b-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: With regards to amendments to Sections R156-31b-102, R156-31b-301a, and R156-31b-301b, no new requirements or processes are added in these proposed amendments. The clarification related to the application process for Utah licensure by those holding an interstate compact license through another jurisdiction might save staff time if the number of telephone or email inquiries is decreased. These potential savings cannot be estimated. With regards to Section R156-31b-301c, the proposed amendments clarifying supervision of APRNs with a psychiatric mental health specialty are time and budget neutral as supervision is already a requirement. With regards to Sections R156-31b-602 and R156-31b-603, the proposed amendments will have minimal impact on the state budget

and should be budget neutral. Programs are currently required to maintain annual communication with the Board. Division staff will still be required to maintain records and ensure program compliance with the rule. Any state costs associated with the rule are already included in the Division budget as a normal course of business.

◆ **LOCAL GOVERNMENTS:** The proposed amendments apply only to licensed nurses, applicants for licensure in those classifications and nursing education programs. As a result, the proposed amendments do not apply to local governments.

◆ **SMALL BUSINESSES:** With respect to Sections R156-31b-602 and R156-31b-603, most nursing education programs have more than 50 employees and would, therefore, not be affected by these proposed rule amendments. A small nursing program would incur the minimal costs of writing and submitting the annual report. The program would already be collecting the data as a part of their duties as education providers. It is estimated that annual costs related to writing and submitted the reports would be less than \$100 per nursing education program.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments apply only to licensed nurses, applicants for licensure in those classifications and nursing education programs. No other persons have been identified that will be affected by any of the proposed amendments.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** With regards to amendments to Sections R156-31b-102, R156-31b-301a, and R156-31b-301b: There are no additional costs identified for those seeking licensure in Utah. Applicants who hold an interstate compact license through another jurisdiction would be able to independently read and comply with the licensure application processes for Utah. These applicants would be more likely to complete the application for licensure without needing to contact the Division with questions. With regards to Section R156-31b-301c: There are no additional costs identified for licensees. Supervision is not a new requirement for licensure. With regards to Sections R156-31b-602 and R156-31b-603: Non-accredited nursing education programs, granted limited-time approval, will incur costs associated with the time and resources needed to comply with the reporting requirements. The program would already be collecting the data as a part of their duties as education providers. Costs related to writing and submitting the reports would be less than \$100 per nursing education program.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** As explained in the rule analysis, these amendments are proposed to clarify existing provisions, some of which include reporting requirements with attendant, though minimal, operational costs for businesses that provide nursing education. No new or additional fiscal impact to these businesses is anticipated.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

COMMERCE  
OCCUPATIONAL AND PROFESSIONAL  
LICENSING  
HEBER M WELLS BLDG  
160 E 300 S  
SALT LAKE CITY, UT 84111-2316  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Suzette Farmer by phone at 801-530-6789, by FAX at 801-530-6511, or by Internet E-mail at [sfarmer@utah.gov](mailto:sfarmer@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2015

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

◆ 03/12/2015 11:00 AM, Heber Wells Bldg, 160 E 300 S, Conference Room 474 (fourth floor), Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2015

AUTHORIZED BY: Mark Steinagel, Director

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**R156. Commerce, Occupational and Professional Licensing.**

**R156-31b. Nurse Practice Act Rule.**

**R156-31b-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 31b, as defined or used in this rule:

(1) "Accreditation" means full approval of a nurse prelicensing course of education by one of the following accrediting bodies:

- (a) the ACEN;
- (b) the CCNE; or
- (c) the COA.

(2) "ACEN" means the Accreditation Commission for Education in Nursing, Inc.

(3) "Administering" means the direct application of a prescription drug or device, whether by injection, inhalation, ingestion, or by any other means, to the body of a human patient or research subject by another person.

(4) "APRN" means advanced practice registered nurse.

(5) "APRN-CRNA" means advanced practice registered nurse with registered nurse anesthetist certification.

(6) "Approved continuing education" means:

(a) continuing education that has been approved by a nationally or internationally recognized approver of professional continuing education for health-related industries;

(b) nursing education courses offered by an approved education program as defined in Subsection R156-31b-102(7);

(c) health-related coursework taken from an educational institution accredited by a regional or national institutional accrediting body recognized by the U.S. Department of Education; and

- (d) training or educational presentations offered by the Division.
- (7) "Approved education program" means any nursing education program that meets the standards established in Section 58-31b-601 or Section R156-31b-602.
- (8) "CCNE" means the Commission on Collegiate Nursing Education.
- (9) "CGFNS" means the Commission on Graduates of Foreign Nursing Schools.
- (10) "COA" means the Council on Accreditation of Nurse Anesthesia Education Programs.
- (11) "Comprehensive nursing assessment" means:
- (a) conducting extensive initial and ongoing data collection:
  - (i) for individuals, families, groups or communities; and
  - (ii) addressing anticipated changes in patient conditions as well as emergent changes in patient health status;
  - (b) recognizing alterations to previous patient conditions;
  - (c) synthesizing the biological, psychological, spiritual, and social aspects of the patient's condition;
  - (d) evaluating the impact of nursing care; and
  - (e) using data generated from the assessments conducted pursuant to this Subsection (a) through (d) to:
    - (i) make independent decisions regarding patient health care needs;
    - (ii) plan nursing interventions;
    - (iii) evaluate any possible need for different interventions; and
    - (iv) evaluate any possible need to communicate and consult with other health team members.
- (12) "Contact hour" in the context of continuing education means 60 minutes, which may include a 10-minute break.
- (13) "Delegate" means:
- (a) to transfer to another nurse the authority to perform a selected nursing task in a selected situation;
  - (b) in the course of practice of an APRN who specializes in psychiatric mental health nursing, to transfer to any individual licensed as a mental health therapist selected psychiatric APRN supervisory clinical experiences within generally-accepted industry standards; or
  - (c) to transfer to an unlicensed person the authority to perform a task that, according to generally-accepted industry standards or law, does not require a nursing assessment as defined in Sections R156-31b-102(11) and (17).
- (14) "Delegatee" means one or more persons assigned by a delegator to act on the delegator's behalf.
- (15) "Delegator" means a person who assigns to another the authority to perform a task on behalf of the person.
- (16)(a) "Disruptive behavior" means conduct, whether verbal or physical, that:
- (i) is demeaning, outrageous, or malicious;
  - (ii) occurs during the process of delivering patient care; and
  - (iii) places a patient at risk.
- (b) "Disruptive behavior" does not include criticism that is offered in good faith with the aim of improving patient care.
- (17) "Focused nursing assessment" means an appraisal of a patient's status and situation at hand, including:
- (a) verification and evaluation of orders; and
  - (b) assessment of:
    - (i) the patient's nursing care needs;
    - (ii) the complexity and frequency of the required nursing care;
    - (iii) the stability of the patient; and
    - (iv) the availability and accessibility of resources, including appropriate equipment, adequate supplies, and other appropriate health care personnel to meet the patient's nursing care needs.
- (18) "Foreign nurse education program" means any program that originates or occurs outside of the United States.
- (19) "Individualized healthcare plan" or "IHP" means a written document that outlines the provision of student healthcare services intended to achieve specific student outcomes.
- (20) "Licensure by equivalency" applies only to the licensed practical nurse and may be warranted if the person seeking licensure:
- (a) has, within the two-year period preceding the date of application, successfully completed course work in a registered nurse program that meets the criteria established in Sections 58-31b-601 and R156-31b-602; or
  - (b)(i) is currently enrolled in a fully accredited registered nurse education program; and
  - (ii) has completed course work that is certified by the education program provider as being equivalent to the course work of an ACEN-accredited practical nursing program.
- (21) "LPN" means licensed practical nurse.
- (22) "MAC" means medication aide certified.
- (23) "Medication" means any prescription or nonprescription drug as defined in Subsections 58-17b-102(24), (37) or (61) of the Pharmacy Practice Act.
- (24) "NLNAC" means the National League for Nursing Accrediting Commission, which as of May 6, 2013, became known as the Accreditation Commission for Education in Nursing, Inc. or ACEN.
- (25) "NCLEX" means the National Council Licensure Examination of the National Council of State Boards of Nursing.
- (26) "Non-approved education program" means any nurse prelicensing course of study that does not meet the criteria of Section 58-31b-601, including a foreign nurse education program.
- (27) "Nurse" means:
- (a) an individual licensed under Title 58, Chapter 31b as:
    - (i) a licensed practical nurse;
    - (ii) a registered nurse;
    - (iii) an advanced practice registered nurse; or
    - (iv) an advanced practice registered nurse-certified registered nurse anesthetist; or
  - (b) a certified nurse midwife licensed under Title 58, Chapter 44a.
- (28) "Other specified health care professionals," as used in Subsection 58-31b-102(15), means an individual, in addition to a registered nurse or a licensed physician, who is permitted to direct the tasks of a licensed practical nurse, and includes:
- (a) an advanced practice registered nurse;
  - (b) a certified nurse midwife;
  - (c) a chiropractic physician;
  - (d) a dentist;
  - (e) an osteopathic physician;
  - (f) a physician assistant;
  - (g) a podiatric physician;
  - (h) an optometrist;
  - (i) a naturopathic physician; or



(j) a mental health therapist as defined in Subsection 58-60-102(5).

(29) "Patient" means one or more individuals:

- (a) who receive medical and/or nursing care; and
- (b) to whom a licensee owes a duty of care.

(30) "Patient surrogate" means an individual who has legal authority to act on behalf of a patient when the patient is unable to act or make decisions unaided, including:

- (a) a parent;
- (b) a foster parent;
- (c) a legal guardian; or
- (d) a person legally designated as the patient's attorney-in-fact.

(31) "PN" means an unlicensed practical nurse.

~~(31)~~<sup>(32)</sup> "Psychiatric mental health nursing specialty" means an expertise in psychiatric mental health, whether as a nurse specialist or APRN.

~~(32)~~<sup>(33)</sup> "Practitioner" means a person authorized by law to prescribe treatment, medication, or medical devices.

~~(33)~~<sup>(34)</sup> "RN" means a registered nurse.

~~(34)~~<sup>(35)</sup> "School" means any private or public institution of primary or secondary education, including a charter school, pre-school, kindergarten, or special education program.

~~(35)~~<sup>(36)</sup> "Supervision" is as defined in Subsection R156-1-102a(4).

~~(36)~~<sup>(37)</sup> "Unprofessional conduct" as defined in Title 58, Chapters 1 and 31b is further defined in Section R156-31b-502.

#### **R156-31b-301a. LPN License -- Education, Examination, and Experience Requirements.**

(1) An applicant who has never obtained a license in any state or country shall:

(a) demonstrate that the applicant:

(i) has successfully completed a ~~an~~<sup>[an]</sup> LPN prelicensing education program that meets the requirements of Section 58-31b-601;

(ii) has successfully completed a ~~an~~<sup>[an]</sup> LPN prelicensing education program that is equivalent to an approved program under Section 58-31b-601; or

(iii)(A) is enrolled in an RN prelicensing education program that meets the requirements of Section 58-31b-601; and

(B) has completed coursework that is equivalent to the coursework of an ACEN-accredited practical nurse program;

(b) pass the ~~[LPN]~~<sup>[LPN]</sup> NCLEX-PN examination pursuant to Section R156-31b-301e; and

(c) submit to a criminal background check pursuant to Subsection 58-31b-302(5) and Section R156-31b-301g.

(2) An applicant who holds a current LPN license issued by another country or ~~[by a]~~<sup>[by a]</sup> state ~~[that does not participate in the interstate compact]~~ shall:

(a) demonstrate that the license issued by the other jurisdiction is active and in good standing as of the date of application;

(b) demonstrate that the ~~[E]~~<sup>[E]</sup>PN prelicensing education completed by the applicant:

(i) is equivalent to ~~[E]~~<sup>[E]</sup>PN prelicensing education approved in Utah as of the date of the applicant's graduation; and

(ii) if a foreign education program, meets all requirements outlined in Section R156-31b-301d;

(c) pass the ~~[LPN]~~<sup>[LPN]</sup> NCLEX-PN examination pursuant to Section R156-31b-301e; and

(d) submit to a criminal background check pursuant to Subsection 58-31b-302(5) and Section R156-31b-301g.

(3) An applicant who holds a current LPN license in an interstate compact state shall apply for a license within 90 days of establishing residency in Utah and complete all requirements pursuant to R156-31b-301a(2).

(4) An applicant who has been licensed previously in Utah, but whose license has expired or lapsed, shall:

(a) if the applicant has not practiced as a nurse for up to five years, document current compliance with the continuing competency requirements as established in Subsection R156-31b-303(3);

(b) if the applicant has not practiced as a nurse for more than five years but less than eight years:

(i) pass the ~~[LPN]~~<sup>[LPN]</sup> NCLEX-PN examination within 60 days following the date of application; or

(ii) successfully complete an approved re-entry program;

(c) if the applicant has not practiced as a nurse for more than eight years but less than 10 years:

(i) successfully complete an approved re-entry program; and

(ii) pass the ~~[LPN]~~<sup>[LPN]</sup> NCLEX-PN examination within 60 days following the date of application; or

(d) if the applicant has not practiced as a nurse for 10 years or more, comply with this Subsection (1).

(5) An applicant who has been licensed in another state or country, but whose license has expired or lapsed, shall:

(a) comply with this Subsection (2)(b); and

(b) comply with this Subsection (4) as applicable; and

(c) submit to a criminal background check pursuant to Subsection 58-31b-302(5) and Section R156-31b-301g.

#### **R156-31b-301b. RN License -- Education, Examination, and Experience Requirements.**

(1) An applicant who has never obtained a license in any state or country shall:

(a) demonstrate that the applicant has successfully completed an RN prelicensing education program that:

(i) meets the requirements of Section 58-31b-601; or

(ii) is equivalent to an approved program under Section 58-31b-601;

(b) pass the ~~[RN]~~<sup>[RN]</sup> NCLEX-RN examination pursuant to Section R156-31b-301e; and

(c) submit to a criminal background check pursuant to Subsection 58-31b-302(5) and Section R156-31b-301g.

(2) An applicant who holds a current RN license issued by another country or ~~[by a]~~<sup>[by a]</sup> state ~~[that does not participate in the interstate compact]~~ shall:

(a) demonstrate that the license issued by the other jurisdiction is current, active, and in good standing as of the date of application;

(b)(i) demonstrate that the applicant has graduated from an RN prelicensing education program; and

(ii) if a foreign education program, demonstrate that the program meets all requirements outlined in Section R156-31b-301d;

(c) pass the ~~[RN]~~<sup>[RN]</sup> NCLEX-RN examination pursuant to Section R156-31b-301e; and

(d) submit to a criminal background check pursuant to Subsection 58-31b-302(5) and Section R156-31b-301g.

(3) An applicant who holds a current RN license in an interstate compact state shall apply for a license within 90 days of

establishing residency in Utah and complete all requirements pursuant to R156-31b-301b(2).

(4) An applicant who has been licensed previously in Utah, but whose license has expired or lapsed, shall:

(a) if the applicant has not practiced as a nurse for up to five years, document current compliance with the continuing competency requirements as established in Subsection R156-31b-303(3);

(b) if the applicant has not practiced as a nurse for more than five years but less than eight years:

(i) pass the [RN]-[NCLEX-RN] examination within 60 days following the date of application; or

(ii) successfully complete an approved re-entry program;

(c) if the applicant has not practiced as a nurse for more than eight years but less than 10 years:

(i) successfully complete an approved re-entry program; and

(ii) pass the [RN]-[NCLEX-RN] examination within 60 days following the date of application; or

(d) if the applicant has not practiced as a nurse for 10 years or more, comply with this Subsection (1).

(5) An applicant who has been licensed in another state or country, but whose license has expired or lapsed, shall:

(a) comply with this Subsection (2)(b);

(b) comply with this Subsection (4) as applicable; and

(c) submit to a criminal background check pursuant to Subsection 58-31b-302(5) and Section R156-31b-301g.

**R156-31b-301c. APRN License -- Education, Examination, and Experience Requirements.**

(1) An applicant who is not currently and validly licensed as an APRN in any state or country shall:

(a) demonstrate that the applicant holds a current, active RN license in good standing;

(b) demonstrate that the applicant has successfully completed an APRN prelicensing education program that meets the requirements of Subsection 58-31b-601(1) and Subsection 58-31b-302(4)(e);

(c) pass a national certification examination consistent with the applicant's educational specialty, pursuant to Section R156-31b-301e, and administered by one of the following credentialing bodies:

(i) the American Nurses Credentialing Center Certification;

(ii) the Pediatric Nursing Certification Board;

(iii) the American Association of Nurse Practitioners;

(iv) the National Certification Corporation for the Obstetric, Gynecologic and Neonatal Nursing Specialties;

(v) the American Midwifery Certification Board, Inc.; or

(vi) the Council on Certification of Nurse Anesthetists;

(d) if the applicant specializes in psychiatric mental health nursing, demonstrate that the requirements outlined in this Subsection (2) are met; and

(e) submit to a criminal background check pursuant to Subsection 58-31b-302(5) and Section R156-31b-301g.

(2) Requirements for APRN Specializing in Psychiatric Mental Health Nursing:

(a) In accordance with Subsection 58-31b-302(4)(g), the supervised clinical practice in mental health therapy and psychiatric and mental health nursing shall consist of a minimum of 4,000 hours of psychiatric mental health nursing education and clinical practice, including mental health therapy, as follows.

(i) 1,000 hours shall be credited for completion of clinical experience in an approved education program in psychiatric mental health nursing.

(ii) The remaining 3,000 hours shall:

(A) be completed after passing the applicable national certification examination and within five years of graduation from an accredited master's or doctoral level educational program;

(B) include a minimum of 1,000 hours of mental health therapy practice; and

(C) include at least 2,000 clinical practice hours that are completed under the supervision of:

(I) an APRN specializing in psychiatric mental health nursing; or

(II) a licensed mental health therapist [who is] as delegated by the supervising APRN [~~to supervise selected clinical experiences under the general supervision of the supervising APRN~~]; and

(D) unless otherwise approved by the Board and Division, be completed while the individual seeking licensure is under the supervision of an individual who meets the requirements of this Subsection (2)(c).

(b) An applicant who obtains all or part of the clinical practice hours outside of Utah may receive credit for that experience by demonstrating that the training completed is equivalent in all respects to the training required under this Subsection (2)(a).

(c)(i) An approved supervisor shall verify practice as a licensee engaged in the practice of mental health therapy for not less than 4,000 hours in a period of not less than two years.

(ii) Duties and responsibilities of a supervisor include:

(A) being independent from control by the supervisee such that the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised;

(B) supervising not more than three supervisees unless otherwise approved by the Division in collaboration with the Board; and

(C) submitting appropriate documentation to the Division with respect to all work completed by the supervisee, including the supervisor's evaluation of the supervisee's competence to practice.

(3) An applicant who holds a current APRN license issued by another state or country shall:

(a) demonstrate that the license issued by the other state or country is current, active, and in good standing as of the date of application;

(b) demonstrate that the APRN prelicensing education completed by the applicant:

(i) if completed on or after January 1, 1987:

(A) is equivalent to APRN prelicensing education approved in Utah as of the date of the applicant's graduation; or

(B) constitutes a bachelor degree in nursing; and

(ii) if a foreign education program, meets all requirements outlined in Section R156-31b-301d;

(c) if the applicant specializes in psychiatric mental health nursing, demonstrate that the applicant has successfully engaged in active practice in psychiatric mental health nursing for not less than 4,000 hours in the three-year period immediately preceding the date of application; and

(d) submit to a criminal background check pursuant to Subsection 58-31b-302(5) and Section R156-31b-301g.

(4) An applicant who has been licensed previously in Utah, but whose license has expired, lapsed, or been on inactive status, shall:

(a) demonstrate current certification in the individual's specialty area; and

(b) submit to a criminal background check pursuant to Subsection 58-31b-302(5) and Section R156-31b-301g.

(5) An applicant who has been licensed previously in another state or country, but whose license has expired or lapsed, shall:

(a) comply with this Subsection (3)(b);

(b) demonstrate that the applicant is currently certified in the individual's specialty area; and

(c) submit to a criminal background check pursuant to Subsection 58-31b-302(5) and Section R156-31b-301g.

**R156-31b-602. Requirements for Limited-time Approval of Non-accredited Nursing Education Programs.**

(1)(a) Pursuant to Subsection 58-31b-601(2), a nursing education program may, prior to obtaining an accreditation described in Subsection 58-31b-601(1), qualify for a limited time as an approved education program if the program provider demonstrates that application for accreditation has been made.

(b) If the program provider is seeking accreditation from the ACEN or CCNE, the limited-time approval shall expire after 12 months unless Subsection (2) applies.

(c) If the program provider is seeking accreditation from the COA, the limited-time approval shall expire at the end of the COA initial review process unless this Subsection (2) applies.

(2)(a) A program that is granted limited-time approval pursuant to this Subsection (1) shall retain that approval if, during the applicable time period outlined in Subsection (1):

(i) it achieves candidate status with the ACEN;

(ii) it achieves applicant status with the CCNE; or

(iii) it successfully completes the COA initial review process.

(b) A program that meets the qualifications described in this Subsection (2)(a) shall retain its limited-time approval until such time as the accrediting body makes a final determination on the program's application for accreditation.

(c) A program shall achieve full accreditation within five years of receiving candidate, applicant, or review status with the approved accrediting body.

(3) The provider of a program that receives limited-time approval pursuant to this Subsection (1) and (2) shall, pursuant to this Subsection (4), disclose to each student who enrolls:

(a) that program accreditation is pending;

(b) that any education completed prior to the accrediting body's final determination will satisfy, at least in part, state requirements for prelicensing education; and

(c) that, if the program fails to achieve accreditation, any student who has not yet graduated will be unable to complete a nurse prelicensing education program through the provider.

(4) The disclosure required by this Subsection (3) shall:

(a) be signed by each student who enrolls with the provider; and

(b) at a minimum, state the following: "The nursing program in which you are enrolling has not yet been accredited. The program is being reviewed by the (accrediting body). Any education you complete prior to a final determination by the (accrediting body) will satisfy associated state requirements for licensure. However, if the

(accrediting body) ultimately determines that the program does not qualify for accreditation, you will need to transfer into a different program in order to complete your nurse prelicensing education. There is no guarantee that another institution will accept you as a transfer student. If you are accepted, there is no guarantee that the institution you attend will accept the education you have completed at (name of institution providing disclosure) for credit toward graduation."

(5) If an accredited program receives notice or determines that its accreditation status is in jeopardy, the institution offering the program shall:

(a) immediately notify the Board of its accreditation status;

(b) immediately and verifiably notify all enrolled students in writing of the program's accreditation status, including:

(i) the estimated date on which the accrediting body will make its final determination as to the program's accreditation; and

(ii) the potential impact of a program's accreditation status on the graduate's ability to secure licensure and employment or transfer academic credits to another institution in the future; and

(c) attempt negotiations with other academic institutions to establish a transfer articulation agreement.

(6) If a program fails to achieve accreditation or loses its accreditation, the institution offering the program shall:

(a) submit a written report to the Board within ten days of receiving formal notification from the accrediting body;

(b) meet with the Board as soon as practicable after receiving formal notification from the accrediting body to discuss programmatic options including:

(i) an appeal of the accrediting body's action;

(ii) a one-time reapplication with an approved accrediting body for applicant or candidate status with an onsite evaluation by the accrediting body to be completed within three years of the date the accreditation was lost;

(iii) a one-time reapplication for limited-time program approval pursuant to Subsections R156-31b-602(1) through (4); or

(iv) written plans to close the program and cease operations.

(7) A program that has exhausted all limited-time approval options shall submit written plans to cease enrollment and close the program.

**R156-31b-603. Education Providers – Requirements for Ongoing Communication with the Board.**

An education program that has achieved limited-time approval of its program(s) shall provide to the Board:

(1) ~~a Board-approved annual report by December 31 of each calendar year[, a copy of the program's annual report, as provided to the applicable program accrediting body]; and~~

(2) copies of any correspondence between the program provider and the accrediting body within 30 days of receipt or submission of the correspondence~~[, a copy of any correspondence between the program provider and the accrediting body].~~

**KEY: licensing, nurses**

**Date of Enactment or Last Substantive Amendment: ~~January 22, 2015~~**

**Notice of Continuation: March 18, 2013**

**Authorizing, and Implemented or Interpreted Law: 58-31b-101; 58-1-106(1)(a); 58-1-202(1)(a)**

**Health, Child Care Center Licensing  
Committee  
R381-60  
Hourly Child Care Centers**

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 39130

FILED: 02/06/2015

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being enacted because of the creation of the new Child Care Center Licensing Committee.

**SUMMARY OF THE RULE OR CHANGE:** This rule is being enacted because of the creation of the new Child Care Center Licensing Committee.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 26-1-7(1)(f) and Subsection 26-39-102(5)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** This rule was repealed under Title R430 and is a proposed new rule to be in compliance with the change to Subsections 26-1-7(1)(f) and 26-39-102(5) from H.B. 159 from the 2014 General Session, which created the Child Care Center Licensing Committee. Since the rule already existed, this rule will not change any of the requirements for child care programs. Therefore, the Department does not anticipate any new costs or savings to child care programs operated by state agencies. (DAR NOTE: The proposed repeal of Rule R430-60 is under DAR No. 39127 in this issue, March 1, 2015, of the Bulletin.)

◆ **LOCAL GOVERNMENTS:** This rule was repealed under Title R430 and is a proposed new rule to be in compliance with the change to Subsections 26-1-7(1)(f) and 26-39-102(5) from H.B. 159 (2014), which created the Child Care Center Licensing Committee. Since the rule already existed, this rule will not change any of the requirements for child care programs. Therefore, the Department does not anticipate any new costs or savings to child care programs operated by state agencies.

◆ **SMALL BUSINESSES:** This rule was repealed under Title R430 and is a proposed new rule to be in compliance with the change to Subsections 26-1-7(1)(f) and 26-39-102(5) from H.B. 159 (2014), which created the Child Care Center Licensing Committee. Since the rule already existed, this rule will not change any of the requirements for child care programs. Therefore, the Department does not anticipate any new costs or savings to child care small business.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because this rule will not change any of the requirements for child care programs, the Department does not anticipate any

new costs or savings to entities or persons that are not small businesses.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Because this rule will not change any of the requirements for child care programs, the Department does not anticipate any compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule will have no impact on business because it establishes and renumbers the former rule found in Title R430 and therefore does not add any existing requirements for businesses.

**THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:**

HEALTH

CHILD CARE CENTER LICENSING COMMITTEE

ROOM 409

3760 S HIGHLAND DR

SALT LAKE CITY, UT 84106

or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Simon Bolivar by phone at 801-803-4618, by FAX at 801-237-0786, or by Internet E-mail at sbolivar@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2015**

**THIS RULE MAY BECOME EFFECTIVE ON: 04/13/2015**

**AUTHORIZED BY: David Patton, PhD, Executive Director**

**R381. Health, Child Care Center Licensing Committee.**

**R381-60. Hourly Child Care Centers.**

**R381-60-1. Authority and Purpose.**

This rule is promulgated pursuant to Title 26, Chapter 39. It establishes standards for the operation and maintenance of hourly child care centers and requirements to protect the health and safety of children in child care centers.

**R381-60-2. Definitions.**

(1) "Accredited College" means a college accredited by an agency recognized by the United States Department of Education as a valid accrediting agency.

(2) "ASTM" means American Society for Testing and Materials.

(3) "Body fluids" means blood, urine, feces, vomit, mucous, and saliva.

(4) "Caregiver" means an employee or volunteer who provides direct care to children.

(5) "CPSC" means the Consumer Product Safety Commission.

(6) "Department" means the Utah Department of Health.

(7) "Designated Play Surface" means a flat surface on a piece of stationary play equipment that a child could stand, walk, sit, or climb on, and is at least 2" by 2" in size.

(8) "Direct Supervision" for infants, toddlers, and preschoolers means the caregiver can see and hear all of the children in his or her assigned group, and is near enough to intervene when necessary. "Direct Supervision" for school age children means the caregiver must be able to hear school age children and must be near enough to intervene when necessary.

(9) "Emotional Abuse" means behavior that could impair a child's emotional development, such as threatening, intimidating, humiliating, or demeaning a child, constant criticism, rejection, profane language, and inappropriate physical restraint.

(10) "Group" means the children assigned to one or two caregivers, occupying an individual classroom or an area defined by furniture or another partition within a room.

(11) "Health Care Provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.

(12) "Inaccessible to Children" means either locked, such as in a locked room, cupboard or drawer, or with a child safety lock, or in a location that a child can not get to.

(13) "Infant" means a child aged birth through 11 months of age.

(14) "Infectious Disease" means an illness that is capable of being spread from one person to another.

(15) "Licensee" means the legally responsible person or persons holding a valid Department of Health child care license.

(16) "Over-the-Counter Medication" means medication that can be purchased without a written prescription from a health care provider. This includes herbal remedies and vitamin or mineral supplements.

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

(18) "Person" means an individual or a business entity.

(19) "Physical Abuse" means causing nonaccidental physical harm to a child.

(20) "Preschooler" means a child aged 2 through 4, and 5 year olds who have not yet started kindergarten.

(21) "Protective cushioning" means cushioning material that has been tested to and meets American Society for Testing and Materials (ASTM) Specification F 1292, such as unitary surfaces, wood chips, engineered wood fiber, and shredded rubber mulch. Protective cushioning may also include pea gravel or sand as allowed by the Consumer Product Safety Commission (CPSC).

(22) "Provider" means the licensee or a staff member to whom the licensee has delegated a duty under this rule.

(23) "Sanitize" means to remove soil and small amounts of certain bacteria from a surface or object with a chemical agent.

(24) "School Age" means kindergarten and older age children.

(25) "Sexual Abuse" means abuse as defined in Utah Code, Section 76-5-404.1.(2).

(26) "Sexually Explicit Material" means any depiction of sexually explicit conduct, as defined in Utah Code, Section 76-5b-103(10).

(27) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, or play pen.

(28) "Stationary Play Equipment" means equipment such as a climber, a slide, a swing, a merry-go-round, or a spring rocker that is meant to stay in one location when children use it. Stationary play equipment does not include:

(a) a sandbox;

(b) a stationary circular tricycle;

(c) a sensory table; or

(d) a playhouse, if the playhouse has no play equipment, such as a slide, swing, ladder, or climber attached to it.

(29) "Toddler" means a child aged 12 months but less than 24 months.

(30) "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.

(31) "Volunteer" means a person who provides care to a child but does not receive direct or indirect compensation for doing so.

### **R381-60-3. License Required.**

(1) A person must be licensed as an hourly child care center if he or she:

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

(b) provides care in a place other than the provider's home or the child's home;

(c) provides care for five or more children for four or more hours per day, but not on a regular schedule;

(d) provides care for each individual child for less than 24 hours per day;

(e) provides care that is open to children on an ongoing basis for four or more weeks in a year; and

(f) provides care for direct or indirect compensation.

(2) If five or more children attend the center for four or more hours a day on a regularly scheduled ongoing basis, the center must be licensed under R381-100.

### **R381-60-4. Facility.**

(1) The licensee shall ensure that any building or playground structure constructed prior to 1978 which has peeling, flaking, chalking, or failing paint is tested for lead based paint. If lead based paint is found, the licensee shall contact the local health department and follow all required procedures for the removal of the lead based paint.

(2) For preschool and younger children, there shall be one working toilet and one working sink for every fifteen children in the center, excluding diapered children. For school age children, there shall be one working toilet and one working sink for every 25 children in the center.

(3) School age children shall have privacy when using the bathroom.

(4) All rooms and occupied areas in the building shall be ventilated by windows that open and have screens or by mechanical ventilation.

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

(6) The provider shall maintain adequate light intensity for the safety of children and the type of activity being conducted by keeping lighting equipment in good working condition.

(7) There shall be at least 35 square feet of indoor space for each child, including the licensee's and employees' children who are not counted in the caregiver to child ratios.

(8) Indoor space per child may include floor space used for furniture, fixtures, or equipment if the furniture, fixture, or equipment is used:

- (a) by children;
- (b) for the care of children; or
- (c) to store classroom materials.

(9) Bathrooms, closets, staff lockers, hallways, corridors, lobbies, kitchens, or staff offices are not included when calculating indoor space for children's use.

**R381-60-5. Cleaning and Maintenance.**

(1) The provider shall maintain a clean and sanitary environment.

(2) The provider shall clean and sanitize bathroom surfaces daily, including toilets, sinks, faucets, and counters.

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

(4) The provider shall maintain ceilings, walls, floor coverings, draperies, blinds, furniture, fixtures, and equipment in good repair to prevent injury to children.

(5) The provider shall maintain entrances, exits, steps and outside walkways in a safe condition, and free of ice, snow, and other hazards.

**R381-60-6. Outdoor Environment.**

If the center has an outdoor play area used by children in care, the following rules apply:

(1) The outdoor play area shall be safely accessible to children.

(2) The outdoor play area shall have at least 40 square feet of space for each child using the playground at the same time as other children.

(3) The outdoor play area shall be enclosed within a 4 foot high fence or wall, or a solid natural barrier that is at least 4 feet high. When children play outdoors, they must play in the enclosed play area except during off-site activities described in Section R381-60-20(2).

(4) There shall be no gaps in fences greater than 5 inches at any point, nor shall gaps between the bottom of the fence and the ground be more than 5 inches.

(5) There shall be no openings greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter anywhere in the outdoor play area where children's feet cannot touch the ground.

(6) When in use, the outdoor play area shall be free of animal excrement, harmful plants, objects, or substances, and standing water.

(7) The outdoor play area shall have a shaded area to protect children from excessive sun and heat.

(8) An outdoor source of drinking water, such as a drinking fountain, individually labeled water bottles, or a pitcher of water and individual cups that are taken outside, shall be available to children whenever the outside temperature is 75 degrees or higher.

(9) All outdoor play equipment and areas shall comply with the following safety standards:

(a) All stationary play equipment used by infants and toddlers shall meet the following requirements:

(i) There shall be no designated play surface that exceeds 3 feet in height.

(ii) If the height of a designated play surface or climbing bar on a piece of equipment is greater than 18 inches, it shall have use zones that extend a minimum of 3 feet in all directions from the perimeter of each piece of equipment.

(b) All stationary play equipment used by preschoolers or school age children shall meet the following requirements for use zones:

(i) If the height of a designated play surface or climbing bar on a piece of equipment is greater than 20 inches, it shall have use zones that extend a minimum of 6 feet in all directions from the perimeter of each piece of equipment.

(c) Two-year-olds may play on infant and toddler play equipment.

(d) Protective cushioning is required in all use zones.

(e) If loose material is used as protective cushioning, the depth of the material shall be at least 9 inches. The provider shall ensure that the material is periodically checked for compaction, and if compacted, shall loosen the material. If the material cannot be loosened due to extreme weather conditions, the provider shall not allow children to play on the equipment until the material can be loosened to the required depth.

(f) If a unitary cushioning material, such as rubber mats or poured rubber-like material is used as protective cushioning:

(i) the licensee shall ensure that the material meets the standard established in ASTM Specification F 1292. The provider shall maintain documentation from the manufacturer that the material meets these specifications.

(ii) the licensee shall ensure that the cushioning material is securely installed, so that it cannot become displaced when children jump, run, walk, land, or move on it, or be moved by children picking it up.

(g) Stationary play equipment that has a designated play surface less than the height specified in Table 1, and that does not have moving parts children sit or stand on, may be placed on grass, but shall not be placed on concrete, asphalt, dirt, or any other hard surface.

TABLE 1

Heights of Designated Play Surfaces That May Be Placed on Grass

Infants and Toddlers	Preschoolers	School Age
Less than 18"	Less than 20"	Less than 30"

(10) There shall be no openings greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter on any piece of stationary play equipment, or within or adjacent to the use zone of any piece of stationary play equipment.

(11) There shall be no strangulation hazards on, within the use zone of, or adjacent to the use zone of any piece of stationary play equipment.

(12) There shall be no crush, shearing, or sharp edge hazards on, within the use zone of, or adjacent to the use zone of any piece of stationary play equipment.

(13) There shall be no tripping hazards, such as concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.

(14) The provider shall maintain playgrounds and playground equipment to protect children's safety.

**R381-60-7. Personnel.**

(1) The center must have a director who is at least 21 years of age and who has one of the following:

(a) an associates, bachelors, or graduate degree in child development, early childhood education, elementary education, or recreation from an accredited college;

(b) a college degree in a related field with documented four courses of higher education completed in child development;

(c) valid proof of a level 8, 9, or 10 Utah Early Childhood Career Ladder certification issued by the Utah Office of Child Care or the Utah Child Care Professional Development Institute;

(d) a currently valid national certification such as a Certified Childcare Professional (CCP) issued by the National Child Care Association, a Child Development Associate (CDA) issued by the Council for Early Childhood Professional Recognition, or other credential that the licensee demonstrates as equivalent to the Department; or

(e) a currently valid National Administrator Credential (NAC) issued by the National Child Care Association, plus one of the following:

(i) valid proof of successful completion of 12 semester credit hours of early childhood development courses from an accredited college; or

(ii) valid proof of completion of the following six Utah Early Childhood Career Ladder courses offered through Child Care Resource and Referral: Child Development Ages and Stages, Learning in the Early Years, A Great Place for Kids, Strong and Smart, Learning to Get Along, and Advanced Child Development.

(f) two years experience in child care, elementary education, or a related field.

(2) All caregivers included in the required caregiver to child ratios shall be at least 18 years of age.

(3) A volunteer may be included in the provider to child ratio only if the volunteer meets all of the caregiver requirements of this rule.

(4) Each new director, assistant director, caregiver, and volunteer shall receive orientation training prior to assuming caregiving duties. Orientation training shall be documented in the caregiver's file and shall include the following topics:

(a) specific job responsibilities;

(b) the center's emergency and disaster plan;

(c) the current child care licensing rules found in Sections R381-60-11 through 24;

(d) procedure for releasing children to authorized individuals only;

(e) proper clean up of body fluids;

(f) signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;

(g) obtaining assistance in emergencies, as specified in the center's emergency and disaster plan.

(h) If the center provides infant or toddler care, new caregiver orientation training topics shall also include:

(i) preventing shaken baby syndrome and coping with crying babies; and

(ii) preventing sudden infant death syndrome.

(5) The following individuals shall complete a minimum of 10 hours of child care training each year, based on the center's license date:

(a) the director;

(b) all caregivers;

(c) all substitutes who work an average of 10 hours a week or more, as averaged over any three month period; and

(d) all volunteers that the provider includes in the provider to child ratio.

(6) Documentation of annual training shall be kept in each caregiver's file, and shall include the name of the training organization, the date, the training topic, and the total hours or minutes of training.

(7) Caregivers who begin employment partway through the license year shall complete a proportionate number of training hours based on the number of months worked prior to the center's relicense date.

(8) Annual training hours shall include the following topics:

(a) the current child care licensing rules found in Sections R381-60-11 through 24;

(b) a review of the center's policies and procedures and emergency and disaster plans, including any updates;

(c) signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;

(d) principles of child growth and development, including development of the brain; and

(e) positive guidance.

(9) If the center provides infant or toddler care, annual training topics for the center director and all infant and toddler caregivers shall also include:

(a) preventing shaken baby syndrome and coping with crying babies; and

(b) preventing sudden infant death syndrome.

(10) A minimum of 5 hours of the required annual in-service training shall be face-to-face instruction.

**R381-60-8. Administration.**

(1) The licensee is responsible for all aspects of the operation and management of the center.

(2) The licensee shall comply with all federal, state, and local laws and rules pertaining to the operation of a child care center.

(3) The provider shall not engage in or allow conduct that is adverse to the public health, morals, welfare, and safety of the children in care.

(4) The provider shall take all reasonable measures to protect the safety of children in care. The licensee shall not engage in activity or allow conduct that unreasonably endangers children in care.

(5) Either the center director or a designee with authority to act on behalf of the center director shall be present at the facility whenever the center is open for care.

(6) Director designees shall be at least 21 years of age, and shall have completed their orientation training.

(7) There shall be a working telephone at the facility, and the center director shall inform the Department of any changes to the center's telephone number within 48 hours of the change.

(8) The provider shall report to the Child Care Licensing Program within the next Department business day any fatality, hospitalization, emergency medical response, or injury that requires attention from a health care provider, unless that medical service was part of the child's medical treatment plan identified by the parent. The provider shall also submit a written report to Child Care Licensing within five working days of the incident.

(9) The center director shall train and supervise all staff to:

- (a) ensure their compliance with this rule;
- (b) ensure that children are not subjected to emotional, physical, or sexual abuse while in care.

(10) The provider shall establish and follow written policies and procedures for the health and safety of the children in care. The written policies and procedures shall address at least the following areas:

- (a) direct supervision and protection of children at all times, including when they are sleeping, using the bathroom, in a mixed group activity, on the playground, and during off-site activities;
- (b) maintaining required caregiver to child ratios when the center has more than the expected number of children, or fewer than the scheduled number of caregivers;
- (c) procedures to account for each child's attendance and whereabouts;
- (d) procedures to ensure that the center releases children to authorized individuals only;
- (e) confidentiality and release of information;
- (f) the use of movies and video or computer games, including what industry ratings the center allows;
- (g) recognizing early signs of illness and determining when there is a need for exclusion from the center;
- (h) discipline of children, including behavioral expectations of children and discipline methods used; and
- (i) how long a child will cry before the parent is contacted.

(11) The provider shall ensure that the written policies and procedures are available for review by staff and the Department during business hours.

#### **R381-60-9. Records.**

(1) The provider shall maintain the following general records on-site for review by the Department:

- (a) documentation of the previous 12 months of fire and disaster drills as specified in R381-60-10(9) and (11);
- (b) current animal vaccination records as required in R381-60-22(2);
- (c) a six week record of child attendance, including sign-in and sign-out records;
- (d) a current local health department inspection;
- (e) a current local fire department inspection;
- (f) if the licensee has been licensed for one year or longer, the most recent "Request for Annual Renewal of CBS/LIS Criminal History Information for Child Care" listing the licensee and all current providers, caregivers, volunteers, directors, owners, and members of the governing body; and
- (g) if the licensee has been licensed for one year or longer, the most recent criminal background "Disclosure and Consent Statement" listing the licensee and all current providers, caregivers, volunteers, directors, owners, and members of the governing body.

(2) The provider shall maintain the following records for each currently enrolled child on-site for review by the Department:

- (a) an admission form containing the following information for each child:
  - (i) name;
  - (ii) date of birth;
  - (iii) the parent's name, address, and phone number, including a daytime phone number;

- (iv) the names of people authorized by the parent to pick up the child;
- (v) the name, address and phone number of a person to be contacted in the event of an emergency if the provider is unable to contact the parent; and
- (vi) medical conditions, including a certification that all immunizations are current.

- (b) a transportation permission form, if the center provides transportation services;
- (c) a six week record of medication permission forms, and a six week record of medications actually administered; and
- (d) a six week record of incident, accident, and injury reports.

(3) The provider shall ensure that information in children's files is not released without written parental permission.

(4) The provider shall maintain the following records for each staff member on-site for review by the Department:

- (a) date of initial employment;
- (b) approved initial CBS/LIS Consent and Release of Liability for Child Care" form;
- (c) a six week record of days worked, and the times worked each day;
- (d) orientation training documentation for caregivers, and for volunteers who work at the center at least once each month;
- (e) annual training documentation for all providers and substitutes who work an average of 10 hours or more a week, as averaged over any three month period; and
- (f) current first aid and CPR certification, if applicable as required in R381-60-10(2), R381-60-20(2)(d), and R381-60-21(2).

#### **R381-60-10. Emergency Preparedness.**

(1) The provider shall post the center's street address and emergency numbers, including ambulance, fire, police, and poison control, near each telephone in the center.

(2) At least one person at the facility at all times when children are in care shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification. Equivalent CPR certification must include hands-on testing.

(3) The licensee shall maintain first-aid supplies in the center, including at least antiseptic, band-aids, and tweezers.

(4) The provider shall have a written emergency and disaster plan which shall include at least the following:

- (a) procedures for responding to medical emergencies and serious injuries that require treatment by a health care provider;
- (b) procedures for responding to fire, earthquake, flood, power failure, and water failure;
- (c) the location of and procedure for emergency shut off of gas, electricity, and water;
- (d) an emergency relocation site where children may be housed if the center is uninhabitable;
- (e) a means of posting the relocation site address in a conspicuous location that can be seen even if the center is closed;
- (f) the transportation route and means of getting staff and children to the emergency relocation site;
- (g) a means of accounting for each child's presence in route to and at the relocation site;



\_\_\_\_\_ (h) a means of accessing children's emergency contact information and emergency releases;

\_\_\_\_\_ (i) provisions for emergency supplies, including at least food, water, a first aid kit, diapers if the center cares for diapered children, and a cell phone;

\_\_\_\_\_ (j) procedures for ensuring adequate supervision of children during emergency situations, including while at the center's emergency relocation site; and

\_\_\_\_\_ (k) staff assignments for specific tasks during an emergency.

\_\_\_\_\_ (5) The provider shall ensure that the emergency and disaster plan is followed in the event of an emergency.

\_\_\_\_\_ (6) The provider shall review the emergency and disaster plan annually, and update it as needed. The provider shall note the date of reviews and updates to the plan on the plan.

\_\_\_\_\_ (7) The emergency and disaster plan shall be available for immediate review by staff and the Department during business hours.

\_\_\_\_\_ (8) The provider shall conduct fire evacuation drills monthly. Drills shall include complete exit of all children and staff from the building.

\_\_\_\_\_ (9) The provider shall document all fire drills, including:

\_\_\_\_\_ (a) the date and time of the drill;

\_\_\_\_\_ (b) the number of children participating;

\_\_\_\_\_ (c) the name of the person supervising the drill;

\_\_\_\_\_ (d) the total time to complete the evacuation; and

\_\_\_\_\_ (e) any problems encountered.

\_\_\_\_\_ (10) The provider shall conduct drills for disasters other than fires at least once every six months.

\_\_\_\_\_ (11) The provider shall document all disaster drills, including:

\_\_\_\_\_ (a) the type of disaster, such as earthquake, flood, prolonged power outage, tornado;

\_\_\_\_\_ (b) the date and time of the drill;

\_\_\_\_\_ (c) the number of children participating;

\_\_\_\_\_ (d) the name of the person supervising the drill; and

\_\_\_\_\_ (e) any problems encountered.

\_\_\_\_\_ (12) The center shall vary the days and times on which fire and other disaster drills are held.

**R381-60-11. Supervision and Ratios.**

\_\_\_\_\_ (1) The provider shall ensure that caregivers provide and maintain direct supervision of all children at all times.

\_\_\_\_\_ (2) Caregivers shall actively supervise children on the playground to minimize the risk of injury to a child.

\_\_\_\_\_ (3) The licensee must maintain minimum care giver to child ratios as provided in Table 2.

TABLE 2

Caregiver to Child Ratios

Caregivers	Children	Limits for Mixed Ages
1	12	No children under age 2
1	8	2 children under age 2
1	6	3 children under age 2

\_\_\_\_\_ (4) Regardless of the number of other children and the minimum ratios in Table 2, if only two care givers are present, the facility may not care for more than four children under the age of two.

\_\_\_\_\_ (5) For no more than 20 minutes, the minimum ratios in Table 2 may not exceed one care giver to 16 children if none of the

children are younger than 24 months old, to allow for an additional care giver to arrive at the program.

\_\_\_\_\_ (6) An hourly program that exceeds the ratio in Table 2, must be able to document having care givers, who, as a condition of their employment, are on call to come to the program as needed and arrive at the program within 20 minutes after receiving notification to report.

\_\_\_\_\_ (7) Whenever the total number of children present to be cared for at a hourly program is more than 20, children younger than 24 months must be cared for in an area that is physically separated from older children. All children 24 months old and older may be cared for in the same group in the same area.

\_\_\_\_\_ (8) The children of the licensee or any employee, age four or older, are not counted in the caregiver to child ratios when the parent of the child is working at the center.

**R381-60-12. Injury Prevention.**

\_\_\_\_\_ (1) The provider shall ensure that the building, grounds, toys, and equipment are maintained and used in a safe manner to prevent injury to children.

\_\_\_\_\_ (2) Areas accessible to children shall be free of unstable heavy equipment, furniture, or other items that children could pull down on themselves.

\_\_\_\_\_ (3) The following items shall be inaccessible to children:

\_\_\_\_\_ (a) firearms, ammunition, and other weapons on the premises. Firearms shall be stored separately from ammunition, in a cabinet or area that is locked with a key or combination lock, unless the use is in accordance with the Utah Concealed Weapons Act, or as otherwise allowed by law;

\_\_\_\_\_ (b) tobacco, alcohol, illegal substances, and sexually explicit material;

\_\_\_\_\_ (c) when in use, portable space heaters, fireplaces, and wood burning stoves;

\_\_\_\_\_ (d) toxic or hazardous chemicals such as cleaners, insecticides, lawn products, and flammable materials;

\_\_\_\_\_ (e) poisonous plants;

\_\_\_\_\_ (f) matches or cigarette lighters;

\_\_\_\_\_ (g) open flames;

\_\_\_\_\_ (h) sharp objects, edges, corners, or points which could cut or puncture skin;

\_\_\_\_\_ (i) for children age 4 and under, ropes, cords, and chains long enough to encircle a child's neck, such as those found on window blinds or drapery cords;

\_\_\_\_\_ (j) for children age 4 and under, plastic bags large enough for a child's head to fit inside, latex gloves, and balloons; and

\_\_\_\_\_ (k) for children age 2 and under, toys or other items with a diameter of less than 1-1/4 inch and a length of less than 2-1/4 inches, or objects with removable parts that have a diameter of less than 1-1/4 inch and a length of less than 2-1/4 inches.

\_\_\_\_\_ (4) The provider shall store all toxic or hazardous chemicals in a container labeled with its contents.

\_\_\_\_\_ (5) Electrical outlets and surge protectors accessible to children age four and younger shall have protective caps or safety devices when not in use.

\_\_\_\_\_ (6) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.

\_\_\_\_\_ (7) High chairs shall have T-shaped safety straps or devices that are used whenever a child is in the chair.

(8) Indoor stationary gross motor play equipment, such as slides and climbers, accessible to children under age 3 shall not have a designated play surface that exceeds 3 feet in height.

(a) If such equipment has an elevated designated play surface less than 18 inches in height, it shall not be placed on a hard surface, such as wood, tile, linoleum, or concrete, and shall have a three foot use zone.

(b) If such equipment has an elevated designated play surface that is 18 inches to 3 feet in height, it shall be surrounded by mats at least 2 inches thick, or cushioning that meets ASTM Standard F1292, in a three foot use zone.

(9) Indoor stationary gross motor play equipment, such as slides and climbers, accessible to children age 3 and older shall not have a designated play surface that exceeds 5-1/2 feet in height.

(a) If such equipment has an elevated designated play surface less than 3 feet in height, it shall be surrounded by protective cushioning material, such as mats at least 1 inch thick, in a six foot use zone.

(b) If such equipment has an elevated designated play surface that is 3 feet to 5-1/2 feet in height, it shall be surrounded by cushioning that meets ASTM Standard F1292, in a six foot use zone.

(10) There shall be no trampolines on the premises that are accessible to any child in care.

(11) If there is a swimming pool on the premises that is not emptied after each use:

(a) the provider shall ensure that the pool is enclosed within a fence or other solid barrier at least six feet high that is kept locked whenever the pool is not in use;

(b) the provider shall maintain the pool in a safe manner;

(c) the provider shall meet all applicable state and local laws and ordinances related to the operation of a swimming pool; and

(d) If the pool is over four feet deep, there shall be a Red Cross certified life guard on duty, or a lifeguard certified by another agency that the licensee can demonstrate to the Department to be equivalent to Red Cross certification, any time children have access to the pool.

(12) If wading pools are used:

(a) a caregiver must be at the pool supervising children whenever there is water in the pool;

(b) diapered children must wear swim diapers and rubber pants while in the pool; and

(c) the pool shall be emptied and sanitized after each use by a separate group of children.

#### **R381-60-13. Parent Notification and Child Security.**

(1) The provider shall post a copy of the Department's child care guide in the center for parents' review during business hours.

(2) Parents shall have access to the center and their child's classroom at all times their child is in care.

(3) The provider shall ensure the following procedures are followed when children arrive at the center or leave the center:

(a) Each child must be signed in and out of the center by the person dropping the child off and picking the child up, including the date and time the child arrives or leaves.

(b) Persons signing children into the center shall use identifiers, such as a signature, initials, or electronic code.

(c) Persons signing children out of the center shall use identifiers, such as a signature, initials, or electronic code, and shall have photo identification if they are unknown to the provider.

(d) Only parents or persons with written authorization from the parent may take any child from the center. In an emergency, the provider may accept verbal authorization if the provider can confirm the identity of the person giving the verbal authorization and the identity of the person picking up the child.

(e) School age children may sign themselves in and out of the program with written permission from their parent.

(4) The provider shall give parents a written report of every incident, accident, or injury involving their child on the day of occurrence. The caregivers involved, the center director, and the person picking the child up shall sign the report on the day of occurrence. If a school age child signs him or herself out of the program, a copy of the report shall be mailed to the parent, or given to the parent the next day the child attends the program.

(5) If a child is injured and the injury appears serious but not life threatening, the provider shall contact the parent immediately, in addition to giving the parent a written report of the injury.

(6) In the case of a life threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb, the provider shall contact emergency personnel immediately, before contacting the parent. If the parent cannot be reached after emergency personnel have been contacted, the provider shall attempt to contact the child's emergency contact person.

#### **R381-60-14. Child Health.**

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

(2) All staff shall follow the reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation found in Utah Code, Section 62A-4a-403 and 62A-4a-411.

(3) The use of tobacco, alcohol, illegal substances, or sexually explicit material on the premises or in center vehicles is prohibited any time that children are in care.

#### **R381-60-15. Child Nutrition.**

(1) If food service is provided:

(a) The provider shall ensure that the center's meal service complies with local health department food service regulations.

(b) The provider shall offer meals or snacks at least once every three hours that a child is in care.

(c) The provider shall serve children's food on dishes, napkins, or sanitary high chair trays, except for individual serving size items, such as crackers, if they are placed directly in the children's hands. The provider shall not place food on a bare table.

(2) If the parent of a child in care has informed the provider that his or her child has a food allergy or sensitivity, the provider shall ensure that the child is not given that food or drink.

(3) The provider shall ensure that food and drink brought in by parents for an individual child's use is labeled with the child's name, and refrigerated if needed. The provider shall ensure that a child in care does not consume a food or beverages that was brought in for another child.

#### **R381-60-16. Infection Control.**

(1) Staff shall wash their hands thoroughly with liquid soap and warm running water at the following times:

(a) before handling or preparing food or bottles;

(b) before and after eating meals and snacks or feeding children;

- (c) before and after diapering a child;
- (d) after using the toilet or helping a child use the toilet;
- (e) before administering medication;
- (f) after coming into contact with body fluids;
- (g) after playing with or handling animals;
- (h) when coming in from outdoors; and
- (h) after cleaning or taking out garbage.
- (2) The provider shall ensure that children wash their hands thoroughly with liquid soap and warm running water at the following times:
  - (a) before and after eating meals and snacks;
  - (b) after using the toilet;
  - (c) after coming into contact with body fluids;
  - (d) after playing with animals; and
  - (e) when coming in from outdoors.
- (3) Only single use towels from a covered dispenser or an electric hand-drying device may be used to dry hands.
- (4) The provider shall ensure that toilet paper is accessible to children, and that it is kept on a dispenser.
- (5) The provider shall clean and sanitize all washable toys and materials weekly, or more often if necessary.
- (6) Stuffed animals, cloth dolls, and dress-up clothes must be machine washable. Pillows must be machine washable, or have removable covers that are machine washable. The provider shall wash stuffed animals, cloth dolls, dress-up clothes, and pillows or covers weekly.
- (7) If water play tables or tubs are used, they shall be washed and sanitized daily, and children shall wash their hands prior to engaging in the activity.
- (8) Persons with contagious TB shall not work or volunteer in the center.
- (9) Children's clothing which is wet or soiled from body fluids:
  - (a) shall not be rinsed or washed at the center; and
  - (b) shall be placed in a leakproof container, labeled with the child's name, and returned to the parent.
- (10) If the center uses a potty chair, the provider shall clean and sanitize the chair after each use.
- (11) The center shall have a portable body fluid clean up kit.
  - (a) All staff shall know the location of the kit and how to use it.
  - (b) The provider shall use the kit to clean up spills of body fluids.
    - (c) The provider shall restock the kit as needed.
- (12) The provider shall notify the local health department, on the day of discovery, of any reportable infectious diseases among children or caregivers, or any sudden or extraordinary occurrence of a serious or unusual illness, as required by the local health department.
- (13) The provider shall post a parent notice at the center when any staff or child has an infectious disease or parasite.
  - (a) The provider shall post the notice in a conspicuous location where it can be seen by all parents.
  - (b) The provider shall post and date the notice the same day the disease or parasite is discovered, and the notice shall remain posted for at least 5 days.

### **R381-60-17. Medications.**

- (1) If medications are given, they shall be administered to children only by a provider trained in the administration of medications as specified in subsections (7) and (8) below.
- (2) All over-the-counter and prescription medications shall:
  - (a) be labeled with the child's full name;
  - (b) be kept in the original or pharmacy container;
  - (c) have the original label; and,
  - (d) have child-safety caps.
- (3) All non-refrigerated medications shall be inaccessible to children and stored in a container or area that is locked, such as a locked room, cupboard, drawer, or a lockbox. The provider shall store all refrigerated medications in a leakproof container.
- (4) The provider shall have a written medication permission form completed and signed by the parent prior to administering any over-the-counter or prescription medication to a child. The permission form must include:
  - (a) the child's name;
  - (b) the name of the medication;
  - (c) written instructions for administration; including:
    - (i) the dosage;
    - (ii) the method of administration;
    - (iii) the times and dates to be administered; and
    - (iv) the disease or condition being treated; and
  - (d) the parent signature and the date signed.
- (5) If the provider keeps over-the-counter medication at the center that is not brought in by a parent for their child's use, the medication shall not be administered to any child without prior parental consent for each instance it is given. The consent must be either:
  - (a) prior written consent; or
  - (b) oral consent for which a provider documents in writing the date and time of the consent, and which the parent or person picking up the child signs upon picking up the child.
- (6) If the provider chooses not to administer medication as instructed by the parent, the provider shall notify the parent of their refusal to administer the medication prior to the time the medication needs to be given.
- (7) When administering medication, the provider administering the medication shall:
  - (a) wash their hands;
  - (b) check the medication label to confirm the child's name;
  - (c) compare the instructions on the parent release form with the directions on the prescription label or product package to ensure that a child is not given a dosage larger than that recommended by the health care provider or the manufacturer;
  - (d) administer the medication; and
  - (e) immediately record the following information:
    - (i) the date, time, and dosage of the medication given;
    - (ii) the signature or initials of the provider who administered the medication; and,
    - (iii) any errors in administration or adverse reactions.
- (8) The provider shall report any adverse reaction to a medication or error in administration to the parent immediately upon recognizing the error or reaction, or after notifying emergency personnel if the reaction is life threatening.

**R381-60-18. Napping.**

If the center uses sleeping equipment for rest time, the following rules apply:

- (1) The provider shall maintain sleeping equipment in good repair.
- (2) A separate crib, cot, mat, or other sleeping equipment shall be used for each child during nap times.
- (3) If sleeping equipment is clearly assigned to and used by an individual child, the provider must clean and sanitize it as needed, but at least weekly.
- (4) If sleeping equipment is not clearly assigned to and used by an individual child, the provider must clean and sanitize it prior to each use.
- (5) The provider must either store sleeping equipment so that the surfaces children sleep on do not touch each other, or else clean and sanitize sleeping equipment prior to each use.
- (6) The provider shall space cribs, cots, and mats a minimum of 2 feet apart when in use, to allow for adequate ventilation, easy access, and ease of exiting.
- (7) Cots and mats may not block exits.

**R381-60-19. Child Discipline.**

- (1) The provider shall inform caregivers and children of the center's behavioral expectations for children.
- (2) The provider may discipline children using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.
- (3) Caregivers may use gentle, passive restraint with children only when it is needed to stop children from injuring themselves or others or from destroying property.
- (4) Discipline measures shall not include any of the following:
  - (a) any form of corporal punishment such as hitting, spanking, shaking, biting, pinching, or any other measure that produces physical pain or discomfort;
  - (b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds that specified in Subsection (3) above.
  - (c) shouting at children;
  - (d) any form of emotional abuse;
  - (e) forcing or withholding of food, rest, or toileting; and
  - (f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.

**R381-60-20. Activities.**

- (1) The provider shall offer a variety of activities and materials that are appropriate to the age and development of the children accepted for care.
- (2) If off-site activities are offered:
  - (a) the provider shall obtain written parental consent for each activity in advance;
  - (b) caregivers shall take written emergency information and releases with them for each child in the group, which shall include:
    - (i) the child's name;
    - (ii) the parent's name and phone number;
    - (iii) the name and phone number of a person to notify in the event of an emergency if the parent cannot be contacted;
    - (iv) the names of people authorized by the parents to pick up the child; and

(c) the provider shall maintain required caregiver to child ratios and direct supervision during the activity;

(d) at least one caregiver present shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification;

(3) If swimming activities are offered, caregivers shall remain with the children during the activity, and lifeguards and pool personnel shall not count toward the caregiver to child ratio.

**R381-60-21. Transportation.**

- (1) Any vehicle used for transporting children shall:
  - (a) be enclosed;
  - (b) be equipped with individual, size appropriate safety restraints, properly installed and in working order, for each child being transported;
  - (c) have a current vehicle registration and safety inspection;
  - (d) be maintained in a safe and clean condition;
  - (e) maintain temperatures between 60-90 degrees Fahrenheit when in use;
  - (f) contain a first aid kit; and
  - (g) contain a body fluid clean up kit.
- (2) At least one adult in each vehicle transporting children shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification.
- (3) The adult transporting children shall:
  - (a) have and carry with them a current valid Utah driver's license, for the type of vehicle being driven, whenever they are transporting children;
  - (b) have with them written emergency contact information for all of the children being transported;
  - (c) ensure that each child being transported is wearing an appropriate individual safety restraint;
  - (d) ensure that no child is left unattended by an adult in the vehicle;
  - (e) ensure that all children remain seated while the vehicle is in motion;
  - (f) ensure that keys are never left in the ignition when the driver is not in the driver's seat; and
  - (g) ensure that the vehicle is locked during transport.

**R381-60-22. Animals.**

- (1) All animals at the facility shall be clean and free of obvious disease or health problems that could adversely affect children.
- (2) All animals at the facility shall have current immunizations for all vaccine preventable diseases that are transmissible to humans. The center shall have documentation of the vaccinations.
- (3) There shall be no animal on the premises that has a history of dangerous, attacking, or aggressive behavior, or a history of biting even one person.
- (4) Children younger than school age shall not assist with the cleaning of animals or animal cages, pens, or equipment.
- (5) If a school age child assists in the cleaning of animals or animal cages, the child shall wash his or her hands immediately after handling the animal or animal equipment.
- (6) There shall be no animals or animal equipment in food preparation or eating areas.
- (7) Children shall not handle reptiles or amphibians.

**R381-60-23. Diapering.**

If the center diapers children, the following applies:

- (1) Caregivers shall change children's diapers at a diaper changing station. Diapers shall not be changed on surfaces used for any other purpose.
- (2) Each diapering station shall be equipped with railings to prevent a child from falling when being diapered.
- (3) Caregivers shall not leave children unattended on the diapering surface.
- (4) The diapering surface shall be smooth, waterproof, and in good repair.
- (5) The provider shall post diapering procedures at each diapering station and ensure that they are followed.
- (6) There shall be a handwashing sink used exclusively for diapering and handwashing after diapering.
- (7) Caregivers shall clean and sanitize the diapering surface after each diaper change.
- (8) Caregivers shall wash their hands before and after each diaper change.
- (9) Caregivers shall place soiled disposable diapers in a container that has a plastic lining and a tightly fitting lid.
- (10) The provider shall daily clean and sanitize containers where soiled diapers are placed.
  - (11) If cloth diapers are used:
    - (a) they shall not be rinsed at the center; and
    - (b) after a diaper change, the caregiver shall place the cloth diaper directly into a leakproof container that is inaccessible to children and labeled with the child's name, or a leakproof diaper service container.
  - (12) Caregivers shall change children's diapers promptly when they are wet or soiled, and shall check diapers at least once every two hours.

**R381-60-24. Infant and Toddler Care.**

If the center cares for infants or toddlers, the following applies:

- (1) If an infant is not able to sit upright and hold their own bottle, a caregiver shall hold the infant during bottle feeding. Bottles shall not be propped.
- (2) The provider shall clean and sanitize high chair trays prior to each use.
- (3) The provider shall cut solid foods for infants into pieces no larger than 1/4 inch in diameter. The provider shall cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.
- (4) Baby food, formula, and breast milk for infants that is brought from home for an individual child's use must be:
  - (a) labeled with the child's name;
  - (b) labeled with the date and time of preparation or opening of the container, such as a jar of baby food;
  - (c) kept refrigerated if needed; and
  - (d) discarded within 24 hours of preparation or opening, except that powdered formula or dry foods which are opened, but are not mixed, are not considered prepared.
- (5) Formula and milk, including breast milk, shall be discarded after feeding, or within two hours of initiating a feeding.
- (6) To prevent burns, heated bottles shall be shaken and tested for temperature before being fed to children.

(7) Pacifiers, bottles, and non-disposable drinking cups shall be labeled with each child's name, and shall not be shared.

(8) Only one infant or toddler shall occupy any one piece of equipment at any time, unless the equipment has individual seats for more than one child.

(9) Infants shall sleep in equipment designed for sleep such as a crib, bassinet, porta-crib or play pen. Infants shall not be placed to sleep on mats or cots, or in bouncers, swings, car seats, or other similar pieces of equipment.

(10) Cribs used by a child in care must:

(a) have tight fitting mattresses;

(b) have slats spaced no more than 2-3/8 inches apart;

(c) have at least 20 inches from the top of the mattress to the top of the crib rail; and

(d) not have strings, cords, ropes, or other entanglement hazards strung across the crib rails.

(11) Infants shall not be placed on their stomachs for sleeping, unless there is documentation from a health care provider for treatment of a medical condition.

(12) Walkers with wheels are prohibited.

(13) Infants and toddlers shall not have access to objects made of styrofoam.

(14) Caregivers shall respond as promptly as possible to infants and toddlers who are in emotional distress due to conditions such as hunger, fatigue, wet or soiled diapers, fear, teething, or illness.

(15) Awake infants and toddlers shall receive positive physical stimulation and positive verbal interaction with a caregiver at least once every 20 minutes.

(16) Awake infants and toddlers shall not be confined for more than 30 minutes in one piece of equipment, such as swings, high chairs, cribs, play pens, or other similar pieces of equipment.

(17) Mobile infants and toddlers shall have freedom of movement in a safe area.

(18) All toys used by infants and toddlers shall be cleaned and sanitized:

(a) weekly;

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

(c) after being contaminated by body fluids.

**KEY: child care facilities, hourly child care centers**

**Date of Enactment or Last Substantive Amendment: 2015**

**Authorizing, and Implemented or Interpreted Law: 26-39-203(1)(a)**

Health, Child Care Center Licensing  
Committee  
**R381-70**  
Out of School Time Programs

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 39129

FILED: 02/06/2015

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being enacted because of the creation of the new Child Care Center Licensing Committee.

**SUMMARY OF THE RULE OR CHANGE:** This rule is being enacted because of the creation of the new Child Care Center Licensing Committee.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 26-1-7(1)(f) and Subsection 26-39-102(5)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** This rule was repealed under Title R430 and is a proposed new rule to be in compliance with the change to Subsections 26-1-7(1)(f) and 26-39-102(5) from H.B. 159 from the 2014 General Session, which created the Child Care Center Licensing Committee. Since the rule already existed, this rule will not change any of the requirements for child care programs. Therefore, the Department does not anticipate any new costs or savings to child care programs operated by state agencies. (DAR NOTE: The proposed repeal of Rule R430-70 is under DAR No. 39126 in this issue, March 1, 2015, of the Bulletin.)

◆ **LOCAL GOVERNMENTS:** This rule was repealed under Title R430 and is a proposed new rule to be in compliance with the change to Subsections 26-1-7(1)(f) and 26-39-102(5) from H.B. 159 (2014), which created the Child Care Center Licensing Committee. Since the rule already existed, this rule will not change any of the requirements for child care programs. Therefore, the Department does not anticipate any new costs or savings to child care programs operated by state agencies.

◆ **SMALL BUSINESSES:** This rule was repealed under Title R430 and is a proposed new rule to be in compliance with the change to Subsections 26-1-7(1)(f) and 26-39-102(5) from H.B. 159 (2014), which created the Child Care Center Licensing Committee. Since the rule already existed, this rule will not change any of the requirements for child care programs. Therefore, the Department does not anticipate any new costs or savings to child care small business.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because this rule will not change any of the requirements for child care programs, the Department does not anticipate any new costs or savings to entities or persons that are not small businesses.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Because this rule will not change any of the requirements for child care programs, the Department does not anticipate any compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule will have no impact on business because it establishes and renumbers the former rule found in Title

R430 and therefore does not add any existing requirements for businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH  
CHILD CARE CENTER LICENSING COMMITTEE  
ROOM 409  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Simon Bolivar by phone at 801-803-4618, by FAX at 801-237-0786, or by Internet E-mail at sbolivar@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 04/13/2015

AUTHORIZED BY: David Patton, PhD, Executive Director

**R381. Health, Child Care Center Licensing Committee.****R381-70. Out of School Time Child Care Programs.****R381-70-1. Purpose.**

This rule is promulgated pursuant to Title 26, Chapter 39. It establishes standards for the operation and maintenance of out of school time programs and requirements to protect the health and safety of children in these programs.

**R381-70-2. Definitions.**

(1) "Accredited College" means a college accredited by an agency recognized by the United States Department of Education as a valid accrediting agency.

(2) "ASTM" means American Society for Testing and Materials.

(3) "Body Fluids" means blood, urine, feces, vomit, mucous, and saliva.

(4) "Caregiver" means an employee or volunteer who provides direct care to children.

(5) "CPSC" means the Consumer Product Safety Commission.

(6) "Department" means the Utah Department of Health.

(7) "Designated Play Surface" means a flat surface on a piece of stationary play equipment that a child could stand, walk, sit, or climb on, and that is at least 2" by 2" in size.

(8) "Direct Supervision" means the caregiver must be able to hear all of the children and must be near enough to intervene when necessary.

(9) "Emotional Abuse" means behavior that could impair a child's emotional development, such as threatening, intimidating, humiliating, or demeaning a child, constant criticism, rejection, profane language, and inappropriate physical restraint.

(10) "Group" means the children assigned to one or two caregivers, occupying an individual classroom or an area defined by furniture or another partition within a room.

(11) "Health Care Provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.

(12) "Inaccessible to Children" means either locked, such as in a locked room, cupboard or drawer, or with a child safety lock, or in a location that a child can not get to.

(13) "Infectious Disease" means an illness that is capable of being spread from one person to another.

(14) "Licensee" means the legally responsible person or persons holding a valid Department of Health child care license.

(15) "Over-the-Counter Medication" means medication that can be purchased without a written prescription from a health care provider. This includes herbal remedies.

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

(17) "Person" means an individual or a business entity.

(18) "Physical Abuse" means causing nonaccidental physical harm to a child.

(19) "Play Equipment Platform" means a flat surface on a piece of stationary play equipment intended for more than one user to stand on, and upon which the users can move freely.

(20) "Protective Barrier" means an enclosing structure such as bars, lattice, or a solid panel, around an elevated play equipment platform that is intended to prevent a child from either accidentally or deliberately passing through the barrier.

(21) "Protective cushioning" means cushioning material that is approved by the American Society for Testing and Materials. For example, sand, pea gravel, engineered wood fibers, shredded tires, or unitary cushioning material, such as rubber mats or poured rubber-like material.

(22) "Provider" means the licensee or a staff member to whom the licensee has delegated a duty under this rule.

(23) "Sanitize" means to remove soil and small amounts of certain bacteria from a surface or object with a chemical agent.

(24) "Sexual Abuse" means abuse as defined in Utah Code, Section 76-5-404.1(2).

(25) "Sexually Explicit Material" means any depiction of sexually explicit conduct, as defined in Utah Code, Section 76-5a-2(8).

(26) "Stationary Play Equipment" means equipment such as a climber, a slide, a swing, a merry-go-round, or a spring rocker that is meant to stay in one location when children use it. Stationary play equipment does not include:

(a) a sandbox;

(b) a stationary circular tricycle;

(c) a sensory table; or

(d) a playhouse, if the playhouse has no play equipment, such as a slide, swing, ladder, or climber attached to it.

(27) "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.

(28) "Volunteer" means a person who provides care to a child but does not receive direct or indirect compensation for doing so. A volunteer is not included in the provider to child ratio, unless the volunteer meets all of the caregiver requirements of this rule.

### **R381-70-3. License Required.**

(1) A person or persons must be licensed to provide child care if:

(a) they provide care in the absence of the child's parent;

(b) they provide care for five or more children;

(c) they provide care in a place other than the provider's home or the child's home;

(d) the program is open to children on an ongoing basis, on three or more days a week and for 30 or more days in a calendar year; and

(e) they provide care for direct or indirect compensation.

(2) A person or persons may be licensed as an out of school time program under this rule if:

(a) they either provide care for two or more hours per day on days when school is in session for the child in care, and four or more hours per day on days when school is not in session for the child in care; or they provide care for four or more hours per day on days when school is not in session; and

(b) all of the children who attend the program are at least five years of age.

### **R381-70-4. Facility.**

(1) The licensee shall ensure that any building or playground structure constructed prior to 1978 which has peeling, flaking, chalking, or failing paint is tested for lead based paint. If lead based paint is found, the licensee shall contact the local health department and follow all required procedures for the removal of the lead based paint.

(2) There shall be at least two working toilets and two working sinks accessible to the children in care.

(3) If there are more than 50 children in attendance, there shall be one additional working sink and one additional working toilet for each additional group of 1 to 25 children.

(4) Children shall have privacy when using the bathroom.

(5) For buildings newly licensed under this rule after 30 June 2010, there shall be a working hand washing sink in each classroom.

(6) In gymnasiums, and in classrooms in buildings licensed before 30 June 2010, hand sanitizer must be available to children in care if there is not a handwashing sink in the room.

(7) All rooms and occupied areas in the building shall be ventilated by mechanical ventilation or by windows that open and have screens.

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

(9) The provider shall maintain adequate light intensity for the safety of children and the type of activity being conducted by keeping lighting equipment in good working condition.

(10) Windows and glass doors within 36 inches from the floor or ground shall be made of safety glass, or have a protective guard.

(11) There shall be at least 35 square feet of indoor space for each child, including the licensee's and employees' children who are not counted in the caregiver to child ratios.

(12) Indoor space per child may include floor space used for furniture, fixtures, or equipment if the furniture, fixture, or equipment is used:

(a) by children;

(b) for the care of children; or

(c) to store classroom materials.

(13) Bathrooms, closets, staff lockers, hallways, corridors, lobbies, kitchens, or staff offices are not included when calculating indoor space for children's use.

**R381-70-5. Cleaning and Maintenance.**

(1) The provider shall maintain a clean and sanitary environment.

(2) The provider shall clean and sanitize bathroom surfaces daily, including toilets, sinks, faucets, and counters.

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

(4) The provider shall maintain ceilings, walls, floor coverings, draperies, blinds, furniture, fixtures, and equipment in good repair to prevent injury to children.

(5) The provider shall maintain entrances, exits, steps and outside walkways in a safe condition, and free of ice, snow, and other hazards.

**R381-70-6. Outdoor Environment.**

(1) There shall be an outdoor play area for children that is safely accessible to children.

(2) The outdoor play area shall have at least 40 square feet of space for each child using the playground at the same time.

(3) The outdoor play area shall accommodate at least 33 percent of the licensed capacity at one time or shall be at least 1600 square feet.

(4) The outdoor play area used by children shall be enclosed within a 4 foot high fence or wall, or a solid natural barrier that is at least 4 feet high.

(5) There shall be no openings greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter anywhere in the outdoor play area where children's feet cannot touch the ground.

(6) When in use, the outdoor play area shall be free of animal excrement, harmful plants, harmful objects, harmful substances, and standing water.

(7) The outdoor play area shall have a shaded area to protect children from excessive sun and heat.

(8) Children shall have unrestricted access to drinking water whenever the outside temperature is 75 degrees or higher.

(9) All outdoor play equipment and areas shall comply with the following safety standards by the dates specified in Subsection (10) below.

(a) All stationary play equipment used by children shall meet the following requirements for use zones:

(i) If the height of a designated play surface or climbing bar on a piece of equipment, excluding swings, is greater than 30 inches, it shall have use zones that meet the following criteria:

(A) The use zone shall extend a minimum of 6 feet in all directions from the perimeter of each piece of equipment.

(B) The use zones of two pieces of equipment that are positioned adjacent to one another may overlap if the designated play surfaces of each structure are no more than 30 inches above the protective surfacing underneath the equipment. In such cases, there shall be a minimum of 6 feet between the adjacent pieces of equipment.

(C) There shall be a minimum use zone of 9 feet between adjacent pieces of equipment if the designated play surface of one or both pieces of equipment is more than 30 inches above the protective surfacing underneath the equipment.

(ii) The use zone in the front and rear of a single-axis swing shall extend a minimum distance of twice the height of the pivot point of the swing, and may not overlap the use zone of any other piece of equipment.

(iii) The use zone for the sides of a single-axis swing shall extend a minimum of 6 feet from the perimeter of the structure, and may overlap the use zone of a separate piece of equipment.

(iv) The use zone of a multi-axis swing shall extend a minimum distance of 6 feet plus the length of the suspending members, and shall never overlap the use zone of another piece of equipment.

(v) The use zone for merry-go-rounds shall never overlap the use zone of another piece of equipment.

(vi) The use zone for spring rockers shall extend a minimum of 6 feet from the at-rest perimeter of the equipment.

(b) Protective cushioning is required in all use zones.

(c) If sand, gravel, or shredded tires are used as protective cushioning, the depth of the material shall meet the CPSC guidelines in Table 1. The provider shall ensure that the material is periodically checked for compaction, and if compacted, shall loosen the material to the depth listed in Table 1. If the material cannot be loosened due to extreme weather conditions, the provider shall not allow children to play on the equipment until the material can be loosened to the required depth.

TABLE 1

Depths of Protective Cushioning Required for Sand, Gravel, and Shredded Tires

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Fine Sand		Coarse Sand		Fine Gravel		Medium Gravel		Shredded Tires	
	Fine Sand	Coarse Sand	Fine Gravel	Medium Gravel	Shredded Tires	Fine Sand	Coarse Sand	Fine Gravel	Medium Gravel	Shredded Tires
4' high or less	6"	6"	6"	6"	6"	6"	6"	6"	6"	6"
Over 4' up to 5'	6"	6"	6"	6"	6"	6"	6"	6"	6"	6"
Over 5' up to 6'	12"	12"	6"	12"	6"	12"	6"	12"	6"	6"
Over 6' up to 7'	12"	Not	9"	Not	6"	12"	Not	6"	6"	6"
Over 7' up to 8'	12"	Not	12"	Not	6"	12"	Not	6"	6"	6"
Over 8' up to 9'	12"	Not	12"	Not	6"	12"	Not	6"	6"	6"
Over 9' up to 10'	Not	Not	12"	Not	6"	12"	Not	6"	6"	6"
Over 10' up to 11'	Not	Not	Not	Not	6"	12"	Not	6"	6"	6"
Over 11' up to 12'	Not	Not	Not	Not	6"	12"	Not	6"	6"	6"

(d) If shredded wood products are used as protective cushioning, the depth of the shredded wood shall meet the CPSC guidelines in Table 2.



TABLE 2

Depths of Protective Cushioning Required for Shredded Wood Products

Highest Designated Play Surface, Climbing Bar, or Swing	Engineered		Double Shredded
	Wood Fibers	Wood Chips	Bark Mulch
Pivot Point			
4' high or less	6"	6"	6"
Over 4' up to 5'	6"	6"	6"
Over 5' up to 6'	6"	6"	6"
Over 6' up to 7'	9"	6"	9"
Over 7' up to 8'	12"	9"	9"
Over 8' up to 9'	12"	9"	9"
Over 9' up to 10'	12"	9"	9"
Over 10' up to 11'	12"	12"	12"
Over 11'	12"	Not Allowed	Not Allowed

- (e) If wood products are used as cushioning material:
  - (i) the providers shall maintain documentation from the manufacturer verifying that the material meets ASTM Specification F 1292, which is adopted by reference; and
  - (ii) there shall be adequate drainage under the material.
- (f) If a unitary cushioning material, such as rubber mats or poured rubber-like material is used as protective cushioning:
  - (i) the licensee shall ensure that the material meets the standard established in ASTM Specification F 1292. The provider shall maintain documentation from the manufacturer that the material meets these specifications.
  - (ii) the licensee shall ensure that the cushioning material is securely installed, so that it cannot become displaced when children jump, run, walk, land, or move on it, or be moved by children picking it up.
- (g) Stationary play equipment that has a designated play surface less than 30 inches and that does not have moving parts children sit or stand on, may be placed on grass, but shall not be placed on concrete, asphalt, dirt, or any other hard surface.
- (h) Stationary play equipment shall have protective barriers on all play equipment platforms that are over 48 inches above the ground. The bottom of the protective barrier shall be less than 3-1/2 inches above the surface of the platform, and there shall be no openings greater than 3-1/2 inches in the barrier. The top of the protective barrier shall be at least 38 inches above the surface of the platform.
  - (i) There shall be no openings greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter on any piece of stationary play equipment, or within or adjacent to the use zone of any piece of stationary play equipment.
  - (j) There shall be no protrusion or strangulation hazards on, within the use zone of, or adjacent to the use zone of any piece of stationary play equipment.
  - (k) There shall be no crush, shearing, or sharp edge hazards on, within the use zone of, or adjacent to the use zone of any piece of stationary play equipment.
  - (l) There shall be no tripping hazards, such as concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.
  - (10) The outdoor play equipment rules specified in Subsection (9) above must be in compliance by the following dates:

- (a) by December 31, 2009: R381-70-6(9)(b-f). There is protective cushioning in all existing use zones that meets the requirements for depth and ASTM Standards.
  - (b) by December 31, 2010:
    - (i) R381-70-6(9)(g). Stationary play equipment that has a designated play surface less than 30 inches, and that does not have moving parts children sit or stand on, is not placed on concrete, asphalt, dirt, or any other hard surface, unless equipment is installed in concrete or asphalt footings.
    - (ii) R381-70-6(9)(j). There are no protrusion or strangulation hazards in or adjacent to the use zone of any piece of stationary play equipment.
  - (c) By December 31, 2011: R381-70-6(9)(g). Stationary play equipment that has a designated play surface less than 30 inches, and that does not have moving parts children sit or stand on, is not placed on concrete, asphalt, dirt, or any other hard surface.
  - (d) By December 31, 2012:
    - (i) R381-70-6(9)(h). Protective barriers are installed on all stationary play equipment that requires them, and the barriers meet the required specifications.
    - (ii) R381-70-6(9)(i). There are no openings greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter on any piece of stationary play equipment, or within or adjacent to the use zone of any piece of stationary play equipment.
    - (iii) R381-70-6(9)(k). There are no crush, shearing, or sharp edge hazards in or adjacent to the use zone of any piece of stationary play equipment.
  - (e) By December 31, 2013:
    - (i) R381-70-6(9)(a)(i-vi). All stationary play equipment has use zones that meet the required measurements.
    - (ii) R381-70-6(9)(l). There are no tripping hazards, such as concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.
    - (11) The provider shall maintain playgrounds and playground equipment to protect children's safety.
- R381-70-7. Personnel.**
- (1) The program must have a director who is at least 21 years of age and who has one of the following educational credentials:
    - (a) an associates, bachelors, or graduate degree from an accredited college and successful completion of at least 12 semester credit hours of coursework in childhood development, elementary education, or a related field;
    - (b) a currently valid national certification such as a Certified Childcare Professional (CCP) issued by the National Child Care Association, a Child Development Associate (CDA) issued by the Council for Early Childhood Professional Recognition, or other credential that the licensee demonstrates as equivalent to the Department; or
    - (c) a currently valid National Administrator Credential (NAC) issued by the National Child Care Association, plus one of the following:
      - (i) valid proof of successful completion of 12 semester credit hours of coursework in childhood development, elementary education, or a related field; or
      - (ii) valid proof of completion of the following six Utah Career Ladder courses offered through Child Care Resource and

Referral: Child Development: Ages and Stages; Advanced Child Development; School Age Course 1; School Age Course 2; School Age Course 3; and School Age Course 4.

(2) All caregivers shall be at least 18 years of age.

(3) All assistant caregivers shall be at least 16 years of age, and shall work under the immediate supervision of a caregiver who is at least 18 years of age.

(4) Assistant caregivers may be included in caregiver to child ratios, but shall not be left unsupervised with children.

(5) Assistant caregivers shall meet all of the caregiver requirements under this rule, except the caregiver age requirement of 18 years.

(6) Whenever there are more than 8 children at the program, there shall be at least two caregivers present who can demonstrate the English literacy skills needed to care for children and respond to emergencies. If there is only one caregiver present because there are 8 or fewer children at the program, that caregiver must be able to demonstrate the English literacy skills needed to care for children and respond to emergencies.

(7) Each new director, assistant director, caregiver, assistant caregiver, and volunteer shall receive orientation training prior to assuming caregiving duties. Orientation training shall be documented and shall include the following topics:

(a) job description and duties;

(b) the program's written policies and procedures;

(c) the program's emergency and disaster plan;

(d) the current child care licensing rules found in Sections R381-70-11 through 22;

(e) introduction and orientation to the children assigned to the caregiver;

(f) a review of the information in the health assessment for each child in their assigned group;

(g) procedure for releasing children to authorized individuals only;

(h) proper clean up of body fluids;

(i) signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;

(j) obtaining assistance in emergencies, as specified in the program's emergency and disaster plan.

(8) The program director, assistant director, all caregivers, and substitutes who work an average of 10 hours a week or more, as averaged over any three month period, shall complete a minimum of 2 hours of training for each month during which they are employed, or 20 hours of training each year, based on the program's license date.

(a) Documentation of annual training shall be kept in each caregiver's file, and shall include the name of the training organization, the date, the training topic, and the total hours or minutes of training.

(b) Annual training hours shall include the following topics:

(i) a review of the current child care licensing rules found in Sections R381-70-11 through 22;

(ii) a review of the program's written policies and procedures and emergency and disaster plans, including any updates;

(iii) signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;

(iv) principles of child growth and development, including development of the brain; and

(v) positive guidance.

(9) A minimum of 10 hours of the required annual in-service training shall be face-to-face instruction.

#### **R381-70-8. Administration.**

(1) The licensee is responsible for all aspects of the operation and management of the program.

(2) The licensee shall comply with all federal, state, and local laws and rules pertaining to the operation of a child care program.

(3) The provider shall not engage in or allow conduct that is adverse to the public health, morals, welfare, and safety of the children in care.

(4) The provider shall take all reasonable measures to protect the safety of children in care. The licensee shall not engage in activity or allow conduct that unreasonably endangers children in care.

(5) Either the program director or a designee with authority to act on behalf of the program director shall be present at the facility whenever the program is open for care.

(6) Director designees shall be at least 21 years of age, and shall have completed their orientation training.

(7) Each week, the program director shall be on-site at the program during operating hours for at least 50% of the time the program is open to children, in order to fulfill the duties specified in this rule, and to ensure compliance with this rule.

(8) The program director must have sufficient freedom from other responsibilities to manage the program and respond to emergencies.

(9) There shall be a working telephone at the facility, and the program director shall inform each child's parent and the Department of any changes to the program's telephone number within 48 hours of the change.

(10) The provider shall report to the Child Care Licensing Program within the next Department business day any fatality, hospitalization, emergency medical response, or injury that requires attention from a health care provider, unless that medical service was part of the child's medical treatment plan identified by the parent. The provider shall also submit a written report to Child Care Licensing within five working days of the incident.

(11) The duties and responsibilities of the program director include the following:

(a) appoint one or more individuals who meet the background screening and training requirements of this rule to be a director designee, with authority to act on behalf of the program director in his or her absence;

(b) train and supervise staff to:

(i) ensure their compliance with this rule;

(ii) ensure they meet the needs of the children in care as specified in this rule; and

(iii) ensure that children are not subjected to emotional, physical, or sexual abuse while in care.

(12) The provider shall establish and follow written policies and procedures for the health and safety of the children in care. The written policies and procedures shall address at least the following areas:

(a) supervision and protection of children at all times, including when they are using the bathroom, on the playground, and during off-site activities;

(b) maintaining required caregiver to child ratios when the program has more than the expected number of children, or fewer than the scheduled number of caregivers;

\_\_\_\_\_ (c) procedures to account for each child's attendance and whereabouts;

\_\_\_\_\_ (d) procedures to ensure that the program releases children to authorized individuals only;

\_\_\_\_\_ (e) confidentiality and release of information;

\_\_\_\_\_ (f) the use of movies and video or computer games, including what industry ratings the program allows;

\_\_\_\_\_ (g) recognizing early signs of illness and determining when there is a need for exclusion from the program;

\_\_\_\_\_ (h) discipline of children, including behavioral expectations of children and discipline methods used;

\_\_\_\_\_ (i) transportation to and from off-site activities, or to and from home, if the program offers these services; and

\_\_\_\_\_ (j) if the program offers transportation to or from school, policies addressing:

\_\_\_\_\_ (i) how long children will be unattended before and after school;

\_\_\_\_\_ (ii) what steps will be taken if children fail to meet the vehicle;

\_\_\_\_\_ (iii) how and when parents will be notified of delays or problems with transportation to and from school; and

\_\_\_\_\_ (iv) the use of size-appropriate safety restraints.

\_\_\_\_\_ (k) if the program has a computer that is connected to the internet and that is accessible to any child in care:

\_\_\_\_\_ (i) written policies for parents explaining how children's computer use is monitored; and

\_\_\_\_\_ (ii) a signed parent permission form for each child who is allowed to use the computer.

\_\_\_\_\_ (13) The provider shall ensure that the written policies and procedures are available for review by parents, staff, and the Department during business hours.

#### **R381-70-9. Records.**

\_\_\_\_\_ (1) The provider shall maintain the following general records on-site for review by the Department:

\_\_\_\_\_ (a) documentation of the previous 12 months of fire and disaster drills as specified in R381-70-10(9) and R381-70-10(11);

\_\_\_\_\_ (b) current animal vaccination records as required in R381-70-22(3);

\_\_\_\_\_ (c) a six week record of child attendance, including sign-in and sign-out records;

\_\_\_\_\_ (d) a current local health department inspection;

\_\_\_\_\_ (e) a current local fire department inspection;

\_\_\_\_\_ (f) if the licensee has been licensed for one or more years, the most recent "Request for Annual Renewal of CBS/LIS Criminal History Information for Child Care" which includes the licensee and all current providers, caregivers, and volunteers; and

\_\_\_\_\_ (g) if the licensee has been licensed for one or more years, the most recent criminal background "Disclosure and Consent Statement" which includes the licensee and all current providers, caregivers, and volunteers.

\_\_\_\_\_ (2) The provider shall maintain the following records for each currently enrolled child on-site for review by the Department:

\_\_\_\_\_ (a) an admission form containing the following information for each child:

\_\_\_\_\_ (i) name;

\_\_\_\_\_ (ii) date of birth;

\_\_\_\_\_ (iii) the parent's name, address, and phone number, including a daytime phone number;

\_\_\_\_\_ (iv) the names of people authorized by the parent to pick up the child;

\_\_\_\_\_ (v) the name, address and phone number of a person to be contacted in the event of an emergency if the provider is unable to contact the parent;

\_\_\_\_\_ (vi) if available, the name, address, and phone number of an out of area/state emergency contact person for the child; and

\_\_\_\_\_ (vii) current emergency medical treatment and emergency medical transportation releases with the parent's signature;

\_\_\_\_\_ (b) a current annual health assessment form as required in R381-70-14(5);

\_\_\_\_\_ (c) a transportation permission form, if the program provides transportation services;

\_\_\_\_\_ (d) a six week record of medication permission forms, and a six week record of medications actually administered; and

\_\_\_\_\_ (e) a six week record of incident, accident, and injury reports.

\_\_\_\_\_ (3) The provider shall ensure that information in children's files is not released without written parental permission.

\_\_\_\_\_ (4) The provider shall maintain the following records for each staff member on-site for review by the Department:

\_\_\_\_\_ (a) date of initial employment;

\_\_\_\_\_ (b) approved initial "CBS/LIS Consent and Release of Liability for Child Care" form;

\_\_\_\_\_ (c) a six week record of days and hours worked;

\_\_\_\_\_ (d) orientation training documentation for caregivers, and for volunteers who work at the program at least once each month;

\_\_\_\_\_ (e) annual training documentation for all providers and substitutes who work an average of 10 hours a week or more, as averaged over any three month period; and

\_\_\_\_\_ (f) current first aid and CPR certification, if applicable as required in R381-70-10(2), R381-70-20(5)(d), and R381-70-21(2).

#### **R381-70-10. Emergency Preparedness.**

\_\_\_\_\_ (1) The provider shall post the program's street address and emergency numbers, including ambulance, fire, police, and poison control, near each telephone in the facility.

\_\_\_\_\_ (2) At least one person at the facility at all times when children are in care shall have a current Red Cross, American Heart Association, or equivalent first aid and CPR certification.

\_\_\_\_\_ (3) The program shall maintain first aid supplies in the center, including at least antiseptic, band-aids, and tweezers.

\_\_\_\_\_ (4) The provider shall have a written emergency and disaster plan which shall include at least the following:

\_\_\_\_\_ (a) procedures for responding to medical emergencies and serious injuries that require treatment by a health care provider;

\_\_\_\_\_ (b) procedures for responding to fire, earthquake, flood, power failure, and water failure;

\_\_\_\_\_ (c) the location of and procedure for emergency shut off of gas, electricity, and water;

\_\_\_\_\_ (d) an emergency relocation site where children may be housed if the facility is uninhabitable;

\_\_\_\_\_ (e) a means of posting the relocation site address in a conspicuous location that can be seen even if the facility is closed;

\_\_\_\_\_ (f) the transportation route and means of getting staff and children to the emergency relocation site;

\_\_\_\_\_ (g) a means of accounting for each child's presence in route to and at the relocation site;

(h) a means of accessing children's emergency contact information and emergency releases; including contact information for an out of area/state emergency contact person for the child, if available;

(i) provisions for emergency supplies, including at least food, water, a first aid kit, and a cell phone;

(j) procedures for ensuring adequate supervision of children during emergency situations, including while at the program's emergency relocation site; and

(k) staff assignments for specific tasks during an emergency.

(5) The provider shall ensure that the emergency and disaster plan is followed in the event of an emergency.

(6) The provider shall review the emergency and disaster plan annually, and update it as needed. The provider shall note the date of reviews and updates to the plan on the plan.

(7) The emergency and disaster plan shall be available for immediate review by staff, parents, and the Department during business hours.

(8) The provider shall conduct fire evacuation drills monthly during each month that the program is open. Drills shall include complete exit of all children and staff from the building.

(9) The provider shall document all fire drills, including:

(a) the date and time of the drill;

(b) the number of children participating;

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

(d) the total time to complete the evacuation; and

(e) any problems encountered.

(10) The provider shall conduct drills for disasters other than fires at least once every six months that the program is open.

(11) The provider shall document all disaster drills, including:

(a) the type of disaster, such as earthquake, flood, prolonged power outage, tornado;

(b) the date and time of the drill;

(c) the number of children participating;

(d) the name of the person supervising the drill; and

(e) any problems encountered.

(12) The program shall vary the days and times on which fire and other disaster drills are held.

#### **R381-70-11. Supervision and Ratios.**

(1) The provider shall ensure that caregivers provide and maintain direct supervision of all children at all times.

(2) Caregivers shall actively supervise children on the playground to minimize the risk of injury to a child.

(3) There shall be at least two caregivers with the children at all times when there are more than 8 children present.

(4) The licensee shall maintain a minimum caregiver to child ratio of one caregiver for every 20 children.

(5) The licensee shall maintain a maximum group size of 40 children per group.

(6) The children of the licensee or any employee are not counted in the caregiver to child ratios when the parent of the child is working at the program, but are counted in the maximum group size.

#### **R381-70-12. Injury Prevention.**

(1) The provider shall ensure that the building, grounds, toys, and equipment are maintained and used in a safe manner to prevent injury to children.

(2) The provider shall ensure that walkways are free of tripping hazards such as unsecured flooring or cords.

(3) Areas accessible to children shall be free of unstable heavy equipment, furniture, or other items that children could pull down on themselves.

(4) The following items shall be inaccessible to children:

(a) firearms, ammunition, and other weapons on the premises. Firearms shall be stored separately from ammunition, in a cabinet or area that is locked with a key or combination lock, unless the use is in accordance with the Utah Concealed Weapons Act, or as otherwise allowed by law;

(b) tobacco, alcohol, illegal substances, and sexually explicit material;

(c) when in use, portable space heaters, fireplaces, and wood burning stoves;

(d) toxic or hazardous chemicals such as insecticides, lawn products, and flammable materials;

(e) poisonous plants;

(f) matches or cigarette lighters;

(g) open flames; and

(h) razors or similarly sharp blades.

(5) The provider shall store all toxic or hazardous chemicals in a container labeled with its contents.

(6) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.

(7) Indoor stationary gross motor play equipment, such as slides and climbers, shall not have a designated play surface that exceeds 5-1/2 feet in height. If such equipment has an elevated designated play surface that is 3 feet or higher it shall be surrounded by cushioning that meets ASTM Standard F1292, in a six foot use zone.

(8) There shall be no trampolines on the premises that are accessible to children in care.

(9) If there is a swimming pool on the premises that is not emptied after each use:

(a) the provider shall ensure that the pool is enclosed within a fence or other solid barrier at least six feet high that is kept locked whenever the pool is not in use;

(b) the provider shall maintain the pool in a safe manner;

(c) the provider shall meet all applicable state and local laws and ordinances related to the operation of a swimming pool; and

(d) If the pool is over four feet deep, there shall be a Red Cross certified life guard on duty, or a lifeguard certified by another agency that the licensee can demonstrate to the Department to be equivalent to Red Cross certification, any time children have access to the pool.

#### **R381-70-13. Parent Notification and Child Security.**

(1) The provider shall post a copy of the Department's child care guide in the facility for parents' review during business hours.

(2) Parents shall have access to the facility and their child's classroom at all times their child is in care.

(3) The provider shall ensure the following procedures are followed when children arrive at the facility or leave the facility:

(a) Each child must be signed in and out of the facility, including the date and time the child arrives or leaves.

(b) Children may sign themselves in and out of the program only with written permission from the parent.

(c) Persons signing children into the facility shall use identifiers, such as a signature, initials, or electronic code.

(d) Persons signing children out of the facility shall use identifiers, such as a signature, initials, or electronic code, and shall have photo identification if they are unknown to the provider.

(e) Only parents or persons with written authorization from the parent may take any child from the facility. In an emergency, the provider may accept verbal authorization if the provider can confirm the identity of the person giving the verbal authorization and the identity of the person picking up the child.

(4) The provider shall give parents a written report of every incident, accident, or injury involving their child on the day of occurrence. The caregivers involved, the program director or director designee, and the person picking the child up shall sign the report on the day of occurrence. If the child signs him or herself out of the program, a copy of the report shall be mailed to the parent.

(5) If a child is injured and the injury appears serious but not life threatening, the provider shall contact the parent immediately, in addition to giving the parent a written report of the injury.

(6) In the case of a life threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb, the provider shall contact emergency personnel immediately, before contacting the parent. If the parent cannot be reached after emergency personnel have been contacted, the provider shall attempt to contact the child's emergency contact person.

#### **R381-70-14. Child Health.**

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

(2) All staff shall follow the reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation found in Utah Code, Section 62A-4a-403 and 62A-4a-411.

(3) The use of tobacco, alcohol, illegal substances, or sexually explicit material on the premises or in program vehicles is prohibited any time that children are in care.

(4) The provider shall not admit any child to the program without a signed health assessment completed by the parent which shall include:

- (a) allergies;
- (b) food sensitivities;
- (c) acute and chronic medical conditions;
- (d) instructions for special or non-routine daily health care;
- (e) current medications; and
- (f) any other special health instructions for the caregiver.

(5) The provider shall ensure that each child's health assessment is reviewed, updated, and signed or initialed by the parent at least annually.

#### **R381-70-15. Child Nutrition.**

(1) If food service is provided:

(a) The provider shall ensure that the program's meal service complies with local health department food service regulations.

(b) Foods served by programs not currently participating and in good standing with the USDA Child and Adult Care Food Program (CACFP) shall comply with the nutritional requirements of the CACFP. The licensee shall either use standard Department-approved menus, menus provided by the CACFP, or menus approved by a registered dietician. Dietitian approval shall be noted and dated on the menus, and shall be current within the past 5 years.

(c) Programs not currently participating and in good standing with the CACFP shall keep a six week record of foods served at each meal or snack.

(d) The provider shall post the current week's menu for parent review.

(2) On days when care is provided for three or more hours, the provider shall offer each child in care a meal or snack at least once every three hours.

(3) The provider shall serve children's food on dishes or napkins, except for individual serving size items, such as crackers, if they are placed directly in the children's hands. The provider shall not place food on a bare table.

(4) If any child in care has a food allergy, the provider shall ensure that all caregivers who serve food to children are aware of the allergy, and that children are not served the food or drink they have an allergy or sensitivity to.

(5) The provider shall ensure that food and drink brought in by parents for an individual child's use is labeled with the child's name, and refrigerated if needed, and shall ensure that the food or drink is only consumed by that child.

#### **R381-70-16. Infection Control.**

(1) All staff shall wash their hands thoroughly with liquid soap and warm running water at the following times:

- (a) before handling or preparing food;
- (b) before eating meals and snacks or feeding children;
- (c) after using the toilet;
- (d) before administering medication;
- (e) after coming into contact with body fluids;
- (f) after playing with or handling animals; and
- (g) after cleaning or taking out garbage.

(2) The provider shall ensure that children wash their hands thoroughly with liquid soap and warm running water at the following times:

- (a) before eating meals and snacks;
- (b) after using the toilet;
- (c) after coming into contact with body fluids; and
- (d) after playing with animals.

(3) Only single use towels from a covered dispenser or an electric hand-drying device may be used to dry hands.

(4) The provider shall ensure that toilet paper is accessible to children, and that it is kept on a dispenser.

(5) The provider shall post handwashing procedures in each bathroom, and they shall be followed.

(6) Caregivers shall teach children proper hand washing techniques and shall oversee hand washing whenever possible.

(7) Personal hygiene items such as toothbrushes, or combs and hair accessories that are not sanitized between each use, shall not be shared by children or used by staff on more than one child, and shall be stored so that they do not touch each other.

(8) The provider shall clean and sanitize all washable toys and materials weekly, or more often if necessary.

(9) Stuffed animals, cloth dolls, and dress-up clothes must be machine washable. Pillows must be machine washable, or have removable covers that are machine washable. The provider shall wash stuffed animals, cloth dolls, dress-up clothes, and pillows or covers weekly.

\_\_\_\_\_ (10) If water play tables or tubs are used, they shall be washed and sanitized daily, and children shall wash their hands prior to engaging in the activity.

\_\_\_\_\_ (11) Persons with contagious TB shall not work or volunteer in the program.

\_\_\_\_\_ (12) Children's clothing shall be changed promptly if they have a toileting accident.

\_\_\_\_\_ (13) Children's clothing which is wet or soiled from body fluids:

\_\_\_\_\_ (a) shall not be rinsed or washed at the facility; and

\_\_\_\_\_ (b) shall be placed in a leakproof container, labeled with the child's name, and returned to the parent.

\_\_\_\_\_ (14) The facility shall have a portable body fluid clean up kit.

\_\_\_\_\_ (a) All staff shall know the location of the kit and how to use it.

\_\_\_\_\_ (b) The provider shall use the kit to clean up spills of body fluids.

\_\_\_\_\_ (c) The provider shall restock the kit as needed.

\_\_\_\_\_ (15) The program shall not care for children who are ill with a suspected infectious disease, except when a child shows signs of illness after arriving at the facility.

\_\_\_\_\_ (16) The provider shall separate children who develop signs of a suspected infectious disease after arriving at the facility from the other children in a safe, supervised location.

\_\_\_\_\_ (17) The provider shall contact the parents of children who are ill with a suspected infectious disease and ask them to immediately pick up their child. If the provider cannot reach the parent, the provider shall contact the individuals listed as emergency contacts for the child and ask them to pick up the child.

\_\_\_\_\_ (18) The provider shall notify the local health department, on the day of discovery, of any reportable infectious diseases among children or caregivers, or any sudden or extraordinary occurrence of a serious or unusual illness, as required by the local health department.

\_\_\_\_\_ (19) The provider shall post a parent notice at the facility when any staff or child has an infectious disease or parasite.

\_\_\_\_\_ (a) The provider shall post the notice in a conspicuous location where it can be seen by all parents.

\_\_\_\_\_ (b) The provider shall post and date the notice the same day the disease or parasite is discovered, and the notice shall remain posted for at least 5 days.

#### **R381-70-17. Medications.**

\_\_\_\_\_ (1) If medications are given, they shall be administered to children only by a provider trained in the administration of medications.

\_\_\_\_\_ (2) All over-the-counter and prescription medications shall:

\_\_\_\_\_ (a) be labeled with the child's full name;

\_\_\_\_\_ (b) be kept in the original or pharmacy container;

\_\_\_\_\_ (c) have the original label; and

\_\_\_\_\_ (d) have child-safety caps.

\_\_\_\_\_ (3) All non-refrigerated medications shall be inaccessible to children and stored in a container or area that is locked, such as a locked room, cupboard, drawer, or a lockbox. The provider shall store all refrigerated medications in a leakproof container.

\_\_\_\_\_ (4) The provider shall have a written medication permission form completed and signed by the parent prior to administering any over-the-counter or prescription medication to a child. The permission form must include:

\_\_\_\_\_ (a) the name of the child;

\_\_\_\_\_ (b) the name of the medication;

\_\_\_\_\_ (c) written instructions for administration; including:

\_\_\_\_\_ (i) the dosage;

\_\_\_\_\_ (ii) the method of administration;

\_\_\_\_\_ (iii) the times and dates to be administered; and

\_\_\_\_\_ (iv) the disease or condition being treated; and

\_\_\_\_\_ (d) the parent signature and the date signed.

\_\_\_\_\_ (5) If the provider keeps over-the-counter medication at the facility that is not brought in by a parent for their child's use, the medication shall not be administered to any child without prior parental consent for each instance it is given. The consent must be either:

\_\_\_\_\_ (a) prior written consent; or

\_\_\_\_\_ (b) oral consent for which a provider documents in writing the date and time of the consent, and which the parent signs upon picking up the child.

\_\_\_\_\_ (6) If the provider chooses not to administer medication as instructed by the parent, the provider shall notify the parent of their refusal to administer the medication prior to the time the medication needs to be given.

\_\_\_\_\_ (7) When administering medication, the provider administering the medication shall:

\_\_\_\_\_ (a) wash their hands;

\_\_\_\_\_ (b) check the medication label to confirm the child's name;

\_\_\_\_\_ (c) compare the instructions on the parent release form with the directions on the prescription label or product package to ensure that a child is not given a dosage larger than that recommended by the health care provider or the manufacturer;

\_\_\_\_\_ (d) administer the medication; and

\_\_\_\_\_ (e) immediately record the following information:

\_\_\_\_\_ (i) the date, time, and dosage of the medication given;

\_\_\_\_\_ (ii) the signature or initials of the provider who administered the medication; and

\_\_\_\_\_ (iii) any errors in administration or adverse reactions.

\_\_\_\_\_ (8) The provider shall report any adverse reaction to a medication or error in administration to the parent immediately upon recognizing the error or reaction, or after notifying emergency personnel if the reaction is life threatening.

#### **R381-70-18. Napping.**

\_\_\_\_\_ If the program offers children the opportunity for rest:

\_\_\_\_\_ (1) The provider shall maintain sleeping equipment in good repair.

\_\_\_\_\_ (2) If sleeping equipment is clearly assigned to and used by an individual child, the provider must clean and sanitize it as needed, but at least weekly.

\_\_\_\_\_ (3) If sleeping equipment is not clearly assigned to and used by an individual child, the provider must clean and sanitize it prior to each use.

\_\_\_\_\_ (4) Sleeping equipment may not block exits at any time.

#### **R381-70-19. Child Discipline.**

\_\_\_\_\_ (1) The provider shall inform caregivers, parents, and children of the program's behavioral expectations for children.

\_\_\_\_\_ (2) The provider may discipline children using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.

(3) Caregivers may use gentle, passive restraint with children only when it is needed to stop children from injuring themselves or others or from destroying property.

(4) Discipline measures shall not include any of the following:

(a) any form of corporal punishment such as hitting, spanking, shaking, biting, pinching, or any other measure that produces physical pain or discomfort;

(b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds that specified in Subsection (3) above.

(c) shouting at children;

(d) any form of emotional abuse;

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

(f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.

### **R381-70-20. Activities.**

(1) The provider shall post a daily schedule of activities. The daily schedule shall include, at a minimum, meal, snack, and outdoor play times.

(2) On days when children are in care for four or more hours, daily activities shall include outdoor play if weather permits.

(3) The provider shall offer activities to support each child's healthy physical, social-emotional, and cognitive-language development. The provider shall post a current activity plan for parent review listing these activities.

(4) The provider shall make the toys and equipment needed to carry out the activity plan accessible to children.

(5) If off-site activities are offered:

(a) the provider shall obtain written parental consent for each activity in advance;

(b) caregivers shall take written emergency information and releases with them for each child in the group, which shall include:

(i) the child's name;

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

(iii) the name and phone number of a person to notify in the event of an emergency if the parent cannot be contacted;

(iv) the names of people authorized by the parents to pick up the child; and

(v) current emergency medical treatment and emergency medical transportation releases;

(c) the provider shall maintain required caregiver to child ratios and direct supervision during the activity;

(d) at least one caregiver present shall have a current Red Cross, American Heart Association, or equivalent first aid and CPR certification;

(e) caregivers shall take a first aid kit with them;

(f) children shall wear or carry with them the name and phone number of the program, but children's names shall not be used on name tags, t-shirts, or other identifiers; and

(g) caregivers shall provide a way for children to wash their hands as specified in R381-70-16(2). If there is no source of running water, caregivers and children may clean their hands with wet wipes and hand sanitizer.

(6) If swimming activities are offered, caregivers shall remain with the children during the activity, and lifeguards and pool personnel shall not count toward the caregiver to child ratio.

### **R381-70-21. Transportation.**

(1) Any vehicle that is used for transporting children in care, except public bus or train, shall:

(a) be enclosed;

(b) be equipped with individual, size appropriate safety restraints, properly installed and in working order, for each child being transported;

(c) have a current vehicle registration and safety inspection;

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

(e) maintain temperatures between 60-90 degrees Fahrenheit when in use;

(f) contain a first aid kit; and

(g) contain a body fluid clean up kit.

(2) At least one adult in each vehicle transporting children shall have a current Red Cross, American Heart Association, or equivalent first aid and CPR certification.

(3) The adult transporting children shall:

(a) have and carry with them a current valid Utah driver's license, for the type of vehicle being driven, whenever they are transporting children;

(b) have with them written emergency contact information for all of the children being transported;

(c) ensure that each child being transported is wearing an appropriate individual safety restraint as required by Utah law;

(d) ensure that no child is left unattended by an adult in the vehicle;

(e) ensure that all children remain seated while the vehicle is in motion;

(f) ensure that keys are never left in the ignition when the driver is not in the driver's seat; and,

(g) ensure that the vehicle is locked during transport.

### **R381-70-22. Animals.**

(1) The provider shall inform parents of the types of animals permitted at the facility.

(2) All animals at the facility shall be clean and free of obvious disease or health problems that could adversely affect children.

(3) All animals at the facility shall have current immunizations for all vaccine preventable diseases that are transmissible to humans. The program shall have documentation of the vaccinations.

(4) There shall be no animal on the premises that has a history of dangerous, attacking, or aggressive behavior, or a history of biting even one person.

(5) There shall be no animals or animal equipment in food preparation or eating areas.

(6) Children shall not handle reptiles or amphibians.

**KEY: child care facilities, child care, child care centers, out of school time child care programs**

**Date of Enactment or Last Substantive Amendment: 2015**

**Authorizing, and Implemented or Interpreted Law: 26-39-203(1)**

**(a)**

**Health, Child Care Center Licensing  
Committee  
R381-100  
Child Care Centers**

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 39128

FILED: 02/06/2015

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being enacted because of the creation of the new Child Care Center Licensing Committee.

**SUMMARY OF THE RULE OR CHANGE:** This rule is being enacted because of the creation of the new Child Care Center Licensing Committee.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 26-1-7(1)(f) and Subsection 26-39-102(5)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** This rule was repealed under Title R430 and is a proposed new rule to be in compliance with the change to Subsections 26-1-7(1)(f) and 26-39-102(5) from H.B. 159 in the 2014 General Session, which created the Child Care Center Licensing Committee. Since the rule already existed, this rule will not change any of the requirements for child care programs. Therefore, the Department does not anticipate any new costs or savings to child care programs operated by state agencies. (DAR NOTE: The proposed repeal of Rule R430-100 is under DAR No. 39125 in this issue, March 1, 2015, of the Bulletin.)

◆ **LOCAL GOVERNMENTS:** This rule was repealed under Title R430 and is a proposed new rule to be in compliance with the change to Subsections 26-1-7(1)(f) and 26-39-102(5) from H.B. 159 (2014), which created the Child Care Center Licensing Committee. Since the rule already existed, this rule will not change any of the requirements for child care programs. Therefore, the Department does not anticipate any new costs or savings to child care programs operated by state agencies.

◆ **SMALL BUSINESSES:** This rule was repealed under Title R430 and is a proposed new rule to be in compliance with the change to Subsections 26-1-7(1)(f) and 26-39-102(5) from H.B. 159 (2014), which created the Child Care Center Licensing Committee. Since the rule already existed, this rule will not change any of the requirements for child care programs. Therefore, the Department does not anticipate any new costs or savings to child care small business.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because this rule will not change any of the requirements for child care programs, the Department does not anticipate any

new costs or savings to entities or persons that are not small businesses.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Because this rule will not change any of the requirements for child care programs, the Department does not anticipate any compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule will have no impact on business because it establishes and renumbers the former rule found in Title R430 and therefore does not add any existing requirements for businesses.

**THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:**

HEALTH

CHILD CARE CENTER LICENSING COMMITTEE  
ROOM 409

3760 S HIGHLAND DR

SALT LAKE CITY, UT 84106

or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Simon Bolivar by phone at 801-803-4618, by FAX at 801-237-0786, or by Internet E-mail at sbolivar@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2015**

**THIS RULE MAY BECOME EFFECTIVE ON: 04/13/2015**

**AUTHORIZED BY: David Patton, PhD, Executive Director**

**R381. Health, Child Care Center Licensing Committee.**

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

**R381-100-1. Authority and Purpose.**

This rule is promulgated pursuant to Title 26, Chapter 39. It establishes standards for the operation and maintenance of child care centers and requirements to protect the health and safety of children in child care centers.

**R381-100-2. Definitions.**

(1) "Accredited College" means a college accredited by an agency recognized by the United States Department of Education as a valid accrediting agency.

(2) "ASTM" means American Society for Testing and Materials.

(3) "Body fluids" means blood, urine, feces, vomit, mucous, and saliva.

(4) "Caregiver" means an employee or volunteer who provides direct care to children.

(5) "CPSC" means the Consumer Product Safety Commission.

(6) "Department" means the Utah Department of Health.



(7) "Designated Play Surface" means a flat surface on a piece of stationary play equipment that a child could stand, walk, sit, or climb on, and is at least 2" by 2" in size.

(8) "Direct Supervision" for infants, toddlers, and preschoolers means the caregiver can see and hear all of the children in his or her assigned group, and is near enough to intervene when necessary. "Direct Supervision" for school age children means the caregiver must be able to hear school age children and must be near enough to intervene when necessary.

(9) "Emotional Abuse" means behavior that could impair a child's emotional development, such as threatening, intimidating, humiliating, or demeaning a child, constant criticism, rejection, profane language, and inappropriate physical restraint.

(10) "Group" means the children assigned to one or two caregivers, occupying an individual classroom or an area defined by furniture or another partition within a room.

(11) "Health Care Provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.

(12) "Inaccessible to Children" means either locked, such as in a locked room, cupboard or drawer, or with a child safety lock, or in a location that a child can not get to.

(13) "Infant" means a child aged birth through 11 months of age.

(14) "Infectious Disease" means an illness that is capable of being spread from one person to another.

(15) "Licensee" means the legally responsible person or persons holding a valid Department of Health child care license.

(16) "Over-the-Counter Medication" means medication that can be purchased without a written prescription from a health care provider. This includes herbal remedies and vitamin and mineral supplements.

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

(18) "Person" means an individual or a business entity.

(19) "Physical Abuse" means causing nonaccidental physical harm to a child.

(20) "Play Equipment Platform" means a flat surface on a piece of stationary play equipment intended for more than one user to stand on, and upon which the users can move freely.

(21) "Preschooler" means a child aged 2 through 4, and 5 year olds who have not yet started kindergarten.

(22) "Protective Barrier" means an enclosing structure such as bars, lattice, or a solid panel, around an elevated play equipment platform that is intended to prevent a child from either accidentally or deliberately passing through the barrier.

(23) "Protective cushioning" means cushioning material that has been tested to and meets American Society for Testing and Materials Specification F 1292, such as unitary surfaces, wood chips, engineered wood fiber, and shredded rubber mulch. Protective cushioning may also include pea gravel or sand as allowed by the Consumer Product Safety Commission (CPSC).

(24) "Provider" means the licensee or a staff member to whom the licensee has delegated a duty under this rule.

(25) "Sanitize" means to remove soil and small amounts of certain bacteria from a surface or object with a chemical agent.

(26) "School Age" means kindergarten and older age children.

(27) "Sexual Abuse" means abuse as defined in Utah Code, Section 76-5-404.1(1)(2).

(28) "Sexually Explicit Material" means any depiction of sexually explicit conduct, as defined in Utah Code, Section 76-5a-2(8).

(29) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, or play pen.

(30) "Stationary Play Equipment" means equipment such as a climber, a slide, a swing, a merry-go-round, or a spring rocker that is meant to stay in one location when children use it. Stationary play equipment does not include:

(a) a sandbox;

(b) a stationary circular tricycle;

(c) a sensory table; or

(d) a playhouse, if the playhouse has no play equipment, such as a slide, swing, ladder, or climber attached to it.

(31) "Toddler" means a child aged 12 months but less than 24 months.

(32) "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.

(33) "Volunteer" means a person who provides care to a child but does not receive direct or indirect compensation for doing so.

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

A person or persons must be licensed as a child care center under this rule if:

(1) they provide care in the absence of the child's parent;

(2) they provide care in a place other than the provider's home or the child's home;

(3) they provide care for five or more children, for four or more hours per day;

(4) they provide care for each individual child for less than 24 hours per day;

(5) the program is open to children on an ongoing basis for four or more weeks in a year; and

(6) they provide care for direct or indirect compensation.

#### **R381-100-4. Facility.**

(1) The licensee shall ensure that any building or playground structure constructed prior to 1978 which has peeling, flaking, chalking, or failing paint is tested for lead based paint. If lead based paint is found, the licensee shall contact the local health department and follow all required procedures for the remediation of the lead based paint.

(2) For preschoolers and toddlers who are toilet trained, there shall be one working toilet and one working sink for every fifteen children in the center, excluding diapered children. For school age children, there shall be one working toilet and one working sink for every 25 children in the center.

(3) School age children shall have privacy when using the bathroom.

(4) For buildings constructed after 1 July 1997 there shall be a working hand washing sink in each classroom.

(5) Each area where infants or toddlers are cared for shall meet one of the following criteria:

(a) There shall be two working sinks in the room. One sink shall be used exclusively for the preparation of food and bottles and

hand washing prior to food preparation, and the other sink shall be used exclusively for hand washing after diapering and non-food activities.

(b) There shall be one working sink in the room which is used exclusively for hand washing, and all bottle and food preparation shall be done in the kitchen and brought to the infant and toddler area by a non-diapering staff member.

(6) Infant and toddler areas shall not be used as access to other areas or rooms.

(7) All rooms and occupied areas in the building shall be ventilated by windows that open and have screens or by mechanical ventilation.

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

(9) The provider shall maintain adequate light intensity for the safety of children and the type of activity being conducted by keeping lighting equipment in good working condition.

(10) Windows and glass doors within 36 inches from the floor or ground shall be made of safety glass, or have a protective guard.

(11) There shall be at least 35 square feet of indoor space for each child, including the licensee's and employees' children who are not counted in the caregiver to child ratios.

(12) Indoor space per child may include floor space used for furniture, fixtures, or equipment if the furniture, fixture, or equipment is used:

(a) by children;

(b) for the care of children; or

(c) to store classroom materials.

(13) Bathrooms, closets, staff lockers, hallways, corridors, lobbies, kitchens, or staff offices are not included when calculating indoor space for children's use.

#### **R381-100-5. Cleaning and Maintenance.**

(1) The provider shall maintain a clean and sanitary environment.

(2) The provider shall clean and sanitize bathroom surfaces daily, including toilets, sinks, faucets, and counters.

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

(4) The provider shall maintain ceilings, walls, floor coverings, draperies, blinds, furniture, fixtures, and equipment in good repair to prevent injury to children.

(5) The provider shall maintain entrances, exits, steps and outside walkways in a safe condition, and free of ice, snow, and other hazards.

#### **R381-100-6. Outdoor Environment.**

(1) There shall be an outdoor play area for children that is safely accessible to children.

(2) The outdoor play area shall have at least 40 square feet of space for each child using the playground at the same time as other children.

(3) The outdoor play area shall accommodate at least 33 percent of the licensed capacity at one time or shall be at least 1600 square feet.

(4) The outdoor play area shall be enclosed within a 4 foot high fence or wall, or a solid natural barrier that is at least 4 feet high.

When children play outdoors, they must play in the enclosed play area except during off-site activities described in Section R381-100-20(5).

(5) There shall be no gaps in fences greater than 5 inches at any point, nor shall gaps between the bottom of the fence and the ground be more than 5 inches.

(6) There shall be no openings greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter anywhere in the outdoor play area where children's feet cannot touch the ground.

(7) When in use, the outdoor play area shall be free of animal excrement, harmful plants, objects, or substances, and standing water.

(8) The outdoor play area shall have a shaded area to protect children from excessive sun and heat.

(9) An outdoor source of drinking water, such as a drinking fountain, individually labeled water bottles, or a pitcher of water and individual cups that are taken outside, shall be available to children whenever the outside temperature is 75 degrees or higher.

(10) All outdoor play equipment and areas shall comply with the following safety standards:

(a) All stationary play equipment used by infants and toddlers shall meet the following requirements:

(i) There shall be no designated play surface that exceeds 3 feet in height.

(ii) If the height of a designated play surface or climbing bar on a piece of equipment, excluding swings, is greater than 18 inches, it shall have use zones that meet the following criteria:

(A) The use zone shall extend a minimum of 3 feet in all directions from the perimeter of each piece of equipment.

(B) Use zones may overlap if two pieces of equipment are positioned adjacent to one another, with a minimum of 3 feet between the perimeters of the two pieces of equipment.

(C) The use zone in front of a slide may not overlap the use zone of any other piece of equipment.

(iii) The use zone in the front and rear of all swings shall extend a minimum distance of twice the height from the swing seat to the pivot point of the swing, and shall not overlap the use zone of any other piece of equipment.

(iv) The use zone for the sides of a single-axis swing shall extend a minimum of 3 feet from the perimeter of the structure, and may overlap the use zone of a separate adjacent piece of equipment.

(v) The use zone of a multi-axis swing shall extend a minimum distance of 3 feet plus the length of the suspending members, and shall never overlap the use zone of another piece of equipment.

(vi) The use zone for merry-go-rounds shall never overlap the use zone of another piece of equipment.

(vii) The use zone for spring rockers shall extend a minimum of 3 feet from the at-rest perimeter of the equipment.

(viii) Swings shall have enclosed seats.

(b) All stationary play equipment used by preschoolers or school age children shall meet the following requirements for use zones:

(i) If the height of a designated play surface or climbing bar on a piece of equipment, excluding swings, is greater than 20 inches, it shall have use zones that meet the following criteria:

(A) The use zone shall extend a minimum of 6 feet in all directions from the perimeter of each piece of equipment.

(B) The use zones of two pieces of equipment that are positioned adjacent to one another may overlap if the designated play

surfaces of each structure are no more than 30 inches above the protective surfacing underneath the equipment. In such cases, there shall be a minimum of 6 feet between the adjacent pieces of equipment.

(C) There shall be a minimum use zone of 9 feet between adjacent pieces of equipment if the designated play surface of one or both pieces of equipment is more than 30 inches above the protective surfacing underneath the equipment.

(ii) The use zone in the front and rear of a single-axis swing shall extend a minimum distance of twice the height of the pivot point of the swing, and may not overlap the use zone of any other piece of equipment.

(iii) The use zone for the sides of a single-axis swing shall extend a minimum of 6 feet from the perimeter of the structure, and may overlap the use zone of a separate piece of equipment.

(iv) The use zone of a multi-axis swing shall extend a minimum distance of 6 feet plus the length of the suspending members, and shall never overlap the use zone of another piece of equipment.

(v) The use zone for merry-go-rounds shall never overlap the use zone of another piece of equipment.

(vi) The use zone for spring rockers shall extend a minimum of 6 feet from the at-rest perimeter of the equipment.

(c) Two-year-olds may play on infant and toddler play equipment.

(d) Protective cushioning is required in all use zones.

(e) If sand, gravel, or shredded tires are used as protective cushioning, the depth of the material shall meet the CPSC guidelines in Table 1. The provider shall ensure that the material is periodically checked for compaction, and if compacted, shall loosen the material to the depth listed in Table 1. If the material cannot be loosened due to extreme weather conditions, the provider shall not allow children to play on the equipment until the material can be loosened to the required depth.

TABLE 1

Depths of Protective Cushioning Required for Sand, Gravel, and Shredded Tires

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Fine Sand		Medium Gravel		Shredded Tires
	Fine Sand	Coarse Sand	Fine Gravel	Medium Gravel	
4' high or less	6"	6"	6"	6"	6"
Over 4' up to 5'	6"	6"	6"	6"	6"
Over 5' up to 6'	12"	12"	6"	12"	6"
Over 6' up to 7'	12"	not allowed	9"	not allowed	6"
Over 7' up to 8'	12"	not allowed	12"	not allowed	6"
Over 8' up to 9'	12"	not allowed	12"	not allowed	6"
Over 9' up to 10'	not allowed	not allowed	12"	not allowed	6"
Over 10' up to 11'	not allowed	not allowed	not allowed	not allowed	6"
Over 11' up to 12'	not allowed	not allowed	not allowed	not allowed	6"

(f) If shredded wood products are used as protective cushioning, the depth of the shredded wood shall meet the CPSC guidelines in Table 2.

TABLE 2

Depths of Protective Cushioning Required for Shredded Wood Products

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Engineered Wood	Wood Chips	Double Shredded Bark Mulch
	Wood Fibers		
4' high or less	6"	6"	6"
Over 4' up to 5'	6"	6"	6"
Over 5' up to 6'	6"	6"	6"
Over 6' up to 7'	9"	6"	9"
Over 7' up to 8'	12"	9"	9"
Over 8' up to 9'	12"	9"	9"
Over 9' up to 10'	12"	9"	9"
Over 10' up to 11'	12"	12"	12"
Over 11'	12"	not allowed	not allowed

(g) If wood products are used as cushioning material:

(i) the providers shall maintain documentation from the manufacturer verifying that the material meets ASTM Specification F 1292, which is adopted by reference; and

(ii) there shall be adequate drainage under the material.

(h) If a unitary cushioning material, such as rubber mats or poured rubber-like material is used as protective cushioning:

(i) the licensee shall ensure that the material meets the standard established in ASTM Specification F 1292. The provider shall maintain documentation from the manufacturer that the material meets these specifications.

(ii) the licensee shall ensure that the cushioning material is securely installed, so that it cannot become displaced when children jump, run, walk, land, or move on it, or be moved by children picking it up.

(i) Stationary play equipment that has a designated play surface less than the height specified in Table 3, and that does not have moving parts children sit or stand on, may be placed on grass, but shall not be placed on concrete, asphalt, dirt, or any other hard surface.

TABLE 3

Heights of Designated Play Surfaces That May Be Placed on Grass

INFANTS and TODDLERS	PRESCHOOLERS	SCHOOL AGE
Less than 18"	Less than 20"	Less than 30"

(j) On stationary play equipment used by infants and toddlers, protective barriers shall be provided on all play equipment platforms that are over 18 inches above the ground. The bottom of the protective barrier shall be less than 3-1/2 inches above the surface of the platform, and there shall be no openings greater than 3-1/2 inches in the barrier. The top of the protective barrier shall be at least 24 inches above the surface of the platform.

(k) On stationary play equipment used by preschoolers, protective barriers shall be provided on all play equipment platforms that are over 30 inches above the ground. The bottom of the protective barrier shall be less than 3-1/2 inches above the surface of the platform, and there shall be no openings greater than 3-1/2 inches in the barrier. The top of the protective barrier shall be at least 29 inches above the surface of the platform.

(l) On stationary play equipment used by school age children, protective barriers shall be provided on all play equipment platforms that are over 48 inches above the ground. The bottom of the protective barrier shall be less than 3-1/2 inches above the surface of the platform, and there shall be no openings greater than 3-1/2 inches in the barrier. The top of the protective barrier shall be at least 38 inches above the surface of the platform.

(m) There shall be no openings greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter on any piece of stationary play equipment, or within or adjacent to the use zone of any piece of stationary play equipment.

(n) There shall be no strangulation hazards on, within the use zone of, or adjacent to the use zone of any piece of stationary play equipment.

(o) There shall be no crush, shearing, or sharp edge hazards on, within the use zone of, or adjacent to the use zone of any piece of stationary play equipment.

(p) There shall be no tripping hazards, such as concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.

(11) The provider shall maintain playgrounds and playground equipment to protect children's safety.

#### **R381-100-7. Personnel.**

(1) The center must have a director who is at least 21 years of age and who has one of the following educational credentials:

(a) an associates, bachelors, or graduate degree from an accredited college and successful completion of at least 12 semester credit hours of early childhood development courses;

(b) valid proof of a level 8, 9, or 10 Utah Early Childhood Career Ladder certification issued by the Utah Office of Child Care or the Utah Child Care Professional Development Institute;

(c) a currently valid national certification such as a Certified Childcare Professional (CCP) issued by the National Child Care Association, a Child Development Associate (CDA) issued by the Council for Early Childhood Professional Recognition, or other credential that the licensee demonstrates as equivalent to the Department; or

(d) a currently valid National Administrator Credential (NAC) issued by the National Child Care Association, plus one of the following:

(i) valid proof of successful completion of 12 semester credit hours of early childhood development courses from an accredited college; or

(ii) valid proof of completion of the following six Utah Early Childhood Career Ladder courses offered through Child Care Resource and Referral: Child Development Ages and Stages, Learning in the Early Years, A Great Place for Kids, Strong and Smart, Learning to Get Along, and Advanced Child Development.

(e) Center directors who used only the National Administrator Credential (NAC) to meet the director qualifications prior to 1 July 2006 have until 30 June 2011 to obtain the required additional training in early childhood development.

(2) All caregivers shall be at least 18 years of age.

(3) All assistant caregivers shall be at least 16 years of age, and shall work under the immediate supervision of a caregiver who is at least 18 years of age.

(4) Assistant caregivers may be included in caregiver to child ratios, but shall not be left unsupervised with any child in care.

(5) Assistant caregivers shall meet all of the caregiver requirements under this rule, except the caregiver age requirement of 18 years.

(6) A volunteer may be included in the provider to child ratio only if the volunteer meets all of the caregiver requirements of this rule.

(7) Whenever there are more than 8 children at the center, there shall be at least two caregivers present who can demonstrate the English literacy skills needed to care for children and respond to emergencies. If there is only one caregiver present because there are 8 or fewer children at the center, that caregiver must be able to demonstrate the English literacy skills needed to care for children and respond to emergencies.

(8) Each new director, assistant director, caregiver, assistant caregiver, and volunteer shall receive orientation training prior to assuming caregiving duties. Orientation training shall be documented in the caregiver's file and shall include the following topics:

(a) job description and duties;

(b) the center's written policies and procedures;

(c) the center's emergency and disaster plan;

(d) the current child care licensing rules found in Sections R381-100-11 through 24;

(e) introduction and orientation to the children assigned to the caregiver;

(f) a review of the information in the health assessment for each child in their assigned group;

(g) procedure for releasing children to authorized individuals only;

(h) proper clean up of body fluids;

(i) signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;

(j) obtaining assistance in emergencies, as specified in the center's emergency and disaster plan.

(k) If the center provides infant or toddler care, new caregiver orientation training topics shall also include:

(i) preventing shaken baby syndrome and coping with crying babies; and

(ii) preventing sudden infant death syndrome.

(9) The following individuals shall complete a minimum of 20 hours of child care training each year, based on the center's license date:

(a) the director;

(b) the assistant director, if the center has one;

(c) all caregivers;

(d) all substitutes who work an average of 10 hours a week or more, as averaged over any three month period; and

(e) all volunteers that the provider includes in the provider to child ratio.

(10) Documentation of annual training shall be kept in each caregiver's file, and shall include the name of the training organization, the date, the training topic, and the total hours or minutes of training.

(11) Caregivers who begin employment partway through the license year shall complete a proportionate number of training hours based on the number of months worked prior to the center's relicense date.

(12) Annual training hours shall include the following topics:

(a) the current child care licensing rules found in Sections R381-100-11 through 24;

(b) a review of the center's written policies and procedures and emergency and disaster plans, including any updates;

(c) signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;

(d) principles of child growth and development, including development of the brain; and

(e) positive guidance.

(13) If the center provides infant or toddler care, annual training topics for the center director and all infant and toddler caregivers shall also include:

(a) preventing shaken baby syndrome and coping with crying babies; and

(b) preventing sudden infant death syndrome.

(14) A minimum of 10 hours of the required annual in-service training shall be face-to-face instruction.

### **R381-100-8. Administration.**

(1) The licensee is responsible for all aspects of the operation and management of the center.

(2) The licensee shall comply with all federal, state, and local laws and rules pertaining to the operation of a child care center.

(3) The provider shall not engage in or allow conduct that is adverse to the public health, morals, welfare, and safety of the children in care.

(4) The provider shall take all reasonable measures to protect the safety of children in care. The licensee shall not engage in activity or allow conduct that unreasonably endangers children in care.

(5) Either the center director or a designee with authority to act on behalf of the center director shall be present at the facility whenever the center is open for care.

(6) Director designees shall be at least 21 years of age, and shall have completed their orientation training.

(7) The center director shall be on-site at the center for at least 20 hours per week during operating hours in order to fulfill the duties specified in this rule, and to ensure compliance with this rule.

(8) The center director must have sufficient freedom from other responsibilities to manage the center and respond to emergencies.

(9) There shall be a working telephone at the facility, and the center director shall inform a parent and the Department of any changes to the center's telephone number within 48 hours of the change.

(10) The provider shall report to the Child Care Licensing Program within the next Department business day any fatality, hospitalization, emergency medical response, or injury that requires attention from a health care provider, unless that medical service was part of the child's medical treatment plan identified by the parent. The provider shall also submit a written report to Child Care Licensing within five working days of the incident.

(11) The duties and responsibilities of the center director include the following:

(a) appoint one or more individuals who meet the background screening and training requirements of this rule to be a director designee, with authority to act on behalf of the center director in his or her absence;

(b) train and supervise staff to:

(i) ensure their compliance with this rule;

(ii) ensure they meet the needs of the children in care as specified in this rule; and

(iii) ensure that children are not subjected to emotional, physical, or sexual abuse while in care.

(12) The provider shall establish and follow written policies and procedures for the health and safety of the children in care. The written policies and procedures shall address at least the following areas:

(a) direct supervision and protection of children at all times, including when they are sleeping, using the bathroom, in a mixed group activity, on the playground, and during off-site activities;

(b) maintaining required caregiver to child ratios when the center has more than the expected number of children, or fewer than the scheduled number of caregivers;

(c) procedures to account for each child's attendance and whereabouts;

(d) procedures to ensure that the center releases children to authorized individuals only;

(e) confidentiality and release of information;

(f) the use of movies and video or computer games, including what industry ratings the center allows;

(g) recognizing early signs of illness and determining when there is a need for exclusion from the center;

(h) ensuring that food preparation and diapering/handwashing are not done in the same sink in infant and toddler areas;

(i) discipline of children, including behavioral expectations of children and discipline methods used;

(j) transportation to and from off-site activities, or to and from home, if the center offers these services; and

(k) if the program offers transportation to or from school, policies addressing:

(i) how long children will be unattended before and after school;

(ii) what steps will be taken if children fail to meet the vehicle;

(iii) how and when parents will be notified of delays or problems with transportation to and from school; and

(iv) the use of size-appropriate safety restraints.

(13) The provider shall ensure that the written policies and procedures are available for review by parents, staff, and the Department during business hours.

### **R381-100-9. Records.**

(1) The provider shall maintain the following general records on-site for review by the Department:

(a) documentation of the previous 12 months of fire and disaster drills as specified in R381-10(11)(12)(13)(14);

(b) current animal vaccination records as required in R381-100-22(3);

(c) a six week record of child attendance, including sign-in and sign-out records;

(d) a current local health department inspection;

(e) a current local fire department inspection;

(f) if the licensee has been licensed for one year or longer, the most recent "Request for Annual Renewal of CBS/LIS Criminal History Information for Child Care" listing the licensee and all current providers, caregivers, volunteers, directors, owners, and members of the governing body; and

(g) if the licensee has been licensed for one year or longer, the most recent criminal background "Disclosure and Consent Statement" listing the licensee and all current providers, caregivers, volunteers, directors, owners, and members of the governing body.

(2) The provider shall maintain the following records for each currently enrolled child on-site for review by the Department:

(a) an admission form containing the following information for each child:

(i) name;

(ii) date of birth;

(iii) the parent's name, address, and phone number, including a daytime phone number;

(iv) the names of people authorized by the parent to pick up the child;

(v) the name, address and phone number of a person to be contacted in the event of an emergency if the provider is unable to contact the parent;

(vi) if available, the name, address, and phone number of an out of area/state emergency contact person for the child; and

(vii) current emergency medical treatment and emergency medical transportation releases with the parent's signature;

(b) a current annual health assessment form as required in R381-100-14(5);

(c) for each infant, toddler, and preschooler, current immunization records or documentation of a legally valid exemption, as specified in R381-100-14(4);

(d) a transportation permission form, if the center provides transportation services;

(e) a six week record of medication permission forms, and a six week record of medications actually administered; and

(f) a six week record of incident, accident, and injury reports; and

(g) a six week record of eating, sleeping, and diaper changes as required in R381-100-23(12) R381-100-24(15).

(3) The provider shall ensure that information in children's files is not released without written parental permission.

(4) The provider shall maintain the following records for each staff member on-site for review by the Department:

(a) date of initial employment;

(b) approved initial "CBS/LIS Consent and Release of Liability for Child Care" form;

(c) a six week record of days worked, and the times worked each day;

(d) orientation training documentation for caregivers, and for volunteers who work at the center at least once each month;

(e) annual training documentation for all providers and substitutes who work an average of 10 hours or more a week, as averaged over any three month period; and

(f) current first aid and CPR certification, if applicable as required in R381-100-10(2), R381-100-20(5)(d), and R381-100-21(2).

**R381-100-10. Emergency Preparedness.**

(1) The provider shall post the center's street address and emergency numbers, including ambulance, fire, police, and poison control, near each telephone in the center.

(2) At least one person at the facility at all times when children are in care shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR

certification. Equivalent CPR certification must include hands-on testing.

(3) The licensee shall maintain first-aid supplies in the center, including at least antiseptic, band-aids, and tweezers.

(4) The provider shall have a written emergency and disaster plan which shall include at least the following:

(a) procedures for responding to medical emergencies and serious injuries that require treatment by a health care provider;

(b) procedures for responding to fire, earthquake, flood, power failure, and water failure;

(c) the location of and procedure for emergency shut off of gas, electricity, and water;

(d) an emergency relocation site where children may be housed if the center is uninhabitable;

(e) a means of posting the relocation site address in a conspicuous location that can be seen even if the center is closed;

(f) the transportation route and means of getting staff and children to the emergency relocation site;

(g) a means of accounting for each child's presence in route to and at the relocation site;

(h) a means of accessing children's emergency contact information and emergency releases; including contact information for an out of area/state emergency contact person for the child, if available;

(i) provisions for emergency supplies, including at least food, water, a first aid kit, diapers if the center cares for diapered children, and a cell phone;

(j) procedures for ensuring adequate supervision of children during emergency situations, including while at the center's emergency relocation site; and

(k) staff assignments for specific tasks during an emergency.

(5) The provider shall ensure that the emergency and disaster plan is followed in the event of an emergency.

(6) The provider shall review the emergency and disaster plan annually, and update it as needed. The provider shall note the date of reviews and updates to the plan on the plan.

(7) The emergency and disaster plan shall be available for immediate review by staff, parents, and the Department during business hours.

(8) The provider shall conduct fire evacuation drills monthly. Drills shall include complete exit of all children and staff from the building.

(9) The provider shall document all fire drills, including:

(a) the date and time of the drill;

(b) the number of children participating;

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

(d) the total time to complete the evacuation; and

(e) any problems encountered.

(10) The provider shall conduct drills for disasters other than fires at least once every six months.

(11) The provider shall document all disaster drills, including:

(a) the type of disaster, such as earthquake, flood, prolonged power outage, tornado;

(b) the date and time of the drill;

(c) the number of children participating;

(d) the name of the person supervising the drill; and

(e) any problems encountered.

(12) The center shall vary the days and times on which fire and other disaster drills are held.

**R381-100-11. Supervision and Ratios.**

(1) The provider shall ensure that caregivers provide and maintain direct supervision of all children at all times.

(2) Caregivers shall actively supervise children on the playground to minimize the risk of injury to a child.

(3) There shall be at least two caregivers with the children at all times when there are more than 8 children or more than 2 infants present.

(4) The licensee shall maintain the minimum caregiver to child ratios and group sizes in Table 5 for single age groups of children.

TABLE 4

Minimum Caregiver to Child Ratios and Group Sizes

Ages of Children	# of Caregivers	# of Children	Maximum Group Size
birth - 23 months	1	4	8
2 years old	1	7	14
3 years old	1	12	24
4 years old	1	15	30
5 years old and school age	1	20	40

(5) A center constructed prior to 1 January 2004 which has been licensed and operated as a child care center continuously since 1 January 2004 is exempt from maximum group size requirements, if the required caregiver to child ratios are maintained, and the required square footage for each classroom is maintained.

(6) Mixed age groups shall meet the ratios and group sizes specified in Tables 5-15.

TABLE 5

Two-year-olds and Three-year-olds

# Caregivers Required	Age	# Children Present
1	2	1-6
	3	1-9
	Total children: up to 10	
2	2	1-13
	3	1-19
	Total children: up to 20	

TABLE 6

Two-year-olds and Four-year-olds

# Caregivers Required	Age	# Children Present
1	2	1-6
	4	1-10
	Total children: up to 11	
2	2	1-13
	4	1-21
	Total children: up to 22	

TABLE 7

Two-year-olds and Five-twelve Year-olds

# Caregivers Required	Age	# Children Present
1	2	1-6
	5-12	1-13
	Total children: up to 14	
2	2	1-13
	5-12	1-27
	Total children: up to 28	

TABLE 8

Three-year-olds and Four-year-olds

# Caregivers Required	Age	# Children Present
1	3	1-11
	4	1-13
	Total children: up to 14	
2	3	1-23
	4	1-27
	Total children: up to 28	

TABLE 9

Three-year-olds and Five-twelve Year-olds

# Caregivers Required	Age	# Children Present
1	3	1-11
	5-12	1-15
	Total children: up to 16	
2	3	1-23
	5-12	1-31
	Total children: up to 32	

TABLE 10

Four-year-olds and Five-twelve Year-olds

# Caregivers Required	Age	# Children Present
1	4	1-14
	5-12	1-17
	Total children: up to 18	
2	4	1-29
	5-12	1-35
	Total children: up to 36	

TABLE 11

Two-year-olds, Three-year-olds, and Four-year-olds

# Caregivers Required	Age	# Children Present
1	2	1-6
	3	1-9
	4	1-9
	Total children: up to 11	
2	2	1-13
	3	1-20
	4	1-20
	Total children: up to 22	

TABLE 12

Two-year-olds, Three-year-olds, and Five-twelve Year Olds

# Caregivers Required	Age	# Children Present
1	2	1-6
	3	1-11
	5-12	1-11
	Total children: up to 13	
2	2	1-13
	3	1-24
	5-12	1-24
	Total children: up to 26	

TABLE 13

Two-year-olds, Four-year-olds, and Five-twelve Year-olds

# Caregivers Required	Age	# Children Present
1	2	1-6
	4	1-12
	5-12	1-12
	Total: up to 14	
2	2	1-13
	4	1-26
	5-12	1-26
	Total children: up to 28	

TABLE 14

Three-year-olds, Four-year-olds, and Five-twelve Year-olds

# Caregivers Required	Age	# Children Present
1	3	1-11
	4	1-14
	5-12	1-14
	Total: up to 16	
2	3	1-23
	4	1-30
	5-12	1-30
	Total children: up to 32	

TABLE 15

Two-year-olds, Three-year-olds, Four-year-olds, and Five-11-year-olds

# Caregivers Required	Age	# Children Present
1	2	1-6
	3	1-11
	4	1-11
	5-12	1-11
	Total children: up to 14	
2	2	1-13
	3	1-25
	4	1-25
	5-12	1-25
	Total children: up to 28	

(7) Infants and toddlers may be included in mixed age groups only when 8 or fewer children are present in the group.

(8) If more than 2 infants or toddlers are included in a mixed age group, there shall be at least 2 caregivers with the group.

(9) During nap time the caregiver to child ratio may double for not more than two hours for children age 18 months and older, if the children are in a restful or non-active state, and if a means of communication is maintained with another caregiver who is on-site.

The caregiver supervising the napping children must be able to contact the other on-site caregiver without having to leave children unattended in the napping area.

(10) The children of the licensee or any employee, age four or older, are not counted in the caregiver to child ratios when the parent of the child is working at the center, but are counted in the maximum group size.

**R381-100-12. Injury Prevention.**

(1) The provider shall ensure that the building, grounds, toys, and equipment are maintained and used in a safe manner to prevent injury to children.

(2) The provider shall ensure that walkways are free of tripping hazards such as unsecured flooring or cords.

(3) Areas accessible to children shall be free of unstable heavy equipment, furniture, or other items that children could pull down on themselves.

(4) The following items shall be inaccessible to children:

(a) firearms, ammunition, and other weapons on the premises. Firearms shall be stored separately from ammunition, in a cabinet or area that is locked with a key or combination lock, unless the use is in accordance with the Utah Concealed Weapons Act, or as otherwise allowed by law;

(b) tobacco, alcohol, illegal substances, and sexually explicit material;

(c) when in use, portable space heaters, fireplaces, and wood burning stoves;

(d) toxic or hazardous chemicals such as cleaners, insecticides, lawn products, and flammable materials;

(e) poisonous plants;

(f) matches or cigarette lighters;

(g) open flames;

(h) sharp objects, edges, corners, or points which could cut or puncture skin;

(i) for children age 4 and under, ropes, cords, wires and chains long enough to encircle a child's neck, such as those found on window blinds or drapery cords;

(j) for children age 4 and under, plastic bags large enough for a child's head to fit inside, latex gloves, and balloons; and

(k) for children age 2 and under, toys or other items with a diameter of less than 1-1/4 inch and a length of less than 2-1/4 inches, or objects with removable parts that have a diameter of less than 1-1/4 inch and a length of less than 2-1/4 inches.

(5) The provider shall store all toxic or hazardous chemicals in a container labeled with its contents.

(6) Electrical outlets and surge protectors accessible to children age four and younger shall have protective caps or safety devices when not in use.

(7) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.

(8) High chairs shall have T-shaped safety straps or devices that are used whenever a child is in the chair.

(9) Indoor stationary gross motor play equipment, such as slides and climbers, accessible to children under age 3 shall not have a designated play surface that exceeds 3 feet in height.

(a) If such equipment has an elevated designated play surface less than 18 inches in height, it shall not be placed on a hard surface, such as wood, tile, linoleum, or concrete, and shall have a three foot use zone.



(b) If such equipment has an elevated designated play surface that is 18 inches to 3 feet in height, it shall be surrounded by mats at least 2 inches thick, or cushioning that meets ASTM Standard F1292, in a three foot use zone.

(10) Indoor stationary gross motor play equipment, such as slides and climbers, accessible to children age 3 and older shall not have a designated play surface that exceeds 5-1/2 feet in height.

(a) If such equipment has an elevated designated play surface less than 3 feet in height, it shall be surrounded by protective cushioning material, such as mats at least 1 inch thick, in a six foot use zone.

(b) If such equipment has an elevated designated play surface that is 3 feet to 5-1/2 feet in height, it shall be surrounded by cushioning that meets ASTM Standard F1292, in a six foot use zone.

(11) There shall be no trampolines on the premises that are accessible to any child in care.

(12) If there is a swimming pool on the premises that is not emptied after each use:

(a) the provider shall ensure that the pool is enclosed within a fence or other solid barrier at least six feet high that is kept locked whenever the pool is not in use;

(b) the provider shall maintain the pool in a safe manner;

(c) the provider shall meet all applicable state and local laws and ordinances related to the operation of a swimming pool; and

(d) If the pool is over four feet deep, there shall be a Red Cross certified life guard on duty, or a lifeguard certified by another agency that the licensee can demonstrate to the Department to be equivalent to Red Cross certification, any time children have access to the pool.

(13) If wading pools are used:

(a) a caregiver must be at the pool supervising children whenever there is water in the pool;

(b) diapered children must wear swim diapers and rubber pants while in the pool; and

(c) the pool shall be emptied and sanitized after each use by a separate group of children.

#### **R381-100-13. Parent Notification and Child Security.**

(1) The provider shall post a copy of the Department's child care guide in the center for parents' review during business hours.

(2) Parents shall have access to the center and their child's classroom at all times their child is in care.

(3) The provider shall ensure the following procedures are followed when children arrive at the center or leave the center:

(a) Each child must be signed in and out of the center, including the date and time the child arrives or leaves.

(b) Persons signing children into the center shall use identifiers, such as a signature, initials, or electronic code.

(c) Persons signing children out of the center shall use identifiers, such as a signature, initials, or electronic code, and shall have photo identification if they are unknown to the provider.

(d) Only parents or persons with written authorization from the parent may take any child from the center. In an emergency, the provider may accept verbal authorization if the provider can confirm the identity of the person giving the verbal authorization and the identity of the person picking up the child.

(e) School age children may sign themselves in and out of the center with written permission from their parent.

(4) The provider shall give parents a written report of every incident, accident, or injury involving their child on the day of occurrence. The caregivers involved, the center director, and the person picking the child up shall sign the report on the day of occurrence. If a school age child signs himself or herself out of the center, a copy of the report shall be mailed to the parent on the day following the occurrence.

(5) If a child is injured and the injury appears serious but not life threatening, the provider shall contact the parent immediately, in addition to giving the parent a written report of the injury.

(6) In the case of a life threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb, the provider shall contact emergency personnel immediately, before contacting the parent. If the parent cannot be reached after emergency personnel have been contacted, the provider shall attempt to contact the child's emergency contact person.

#### **R381-100-14. Child Health.**

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

(2) All staff shall follow the reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation found in Utah Code, Section 62A-4a-403 and 62A-4a-411.

(3) The use of tobacco, alcohol, illegal substances, or sexually explicit material on the premises or in center vehicles is prohibited any time that children are in care.

(4) The provider shall not admit any infant, toddler, or preschooler to the center without documentation of:

(a) proof of current immunizations, as required by Utah law;

(b) proof of receiving at least one dose of each required vaccine prior to enrollment, and a written schedule to receive all subsequent required vaccinations; or

(c) written documentation of an immunization exemption due to personal, medical or religious reasons.

(5) The provider shall not admit any child to the center without a signed health assessment completed by the parent which shall include:

(a) allergies;

(b) food sensitivities;

(c) acute and chronic medical conditions;

(d) instructions for special or non-routine daily health care;

(e) current medications; and

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

(6) The provider shall ensure that each child's health assessment is reviewed, updated, and signed or initialed by the parent at least annually.

#### **R381-100-15. Child Nutrition.**

(1) If food service is provided:

(a) The provider shall ensure that the center's meal service complies with local health department food service regulations.

(b) Foods served by centers not currently participating and in good standing with the USDA Child and Adult Care Food Program (CACFP) shall comply with the nutritional requirements of the CACFP. The licensee shall either use standard Department-approved menus, menus provided by the CACFP, or menus approved by a registered dietician. Dietitian approval shall be noted and dated on the menus, and shall be current within the past 5 years.

(c) Centers not currently participating and in good standing with the CACFP shall keep a six week record of foods served at each meal or snack.

(d) The provider shall post the current week's menu for parent review.

(2) The provider shall offer meals or snacks at least once every three hours.

(3) The provider shall serve children's food on dishes, napkins, or sanitary high chair trays, except for individual serving size items, such as crackers, if they are placed directly in the children's hands. The provider shall not place food on a bare table.

(4) The provider shall ensure that caregivers who serve food to children are aware of food allergies and sensitivities for the children in their assigned group, and that children are not served the food or drink they have an allergy or sensitivity to.

(5) The provider shall ensure that food and drink brought in by parents for an individual child's use is labeled with the child's name, and refrigerated if needed, and shall ensure that the food or drink is only consumed by that child.

#### **R381-100-16. Infection Control.**

(1) Staff shall wash their hands thoroughly with liquid soap and warm running water at the following times:

(a) before handling or preparing food or bottles;

(b) before and after eating meals and snacks or feeding children;

(c) before and after diapering a child;

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

(e) before administering medication;

(f) after coming into contact with body fluids, including breast milk;

(g) after playing with or handling animals;

(h) when coming in from outdoors; and

(i) after cleaning or taking out garbage.

(2) The provider shall ensure that children wash their hands thoroughly with liquid soap and warm running water at the following times:

(a) before and after eating meals and snacks;

(b) after using the toilet;

(c) after coming into contact with body fluids;

(d) after playing with animals; and

(e) when coming in from outdoors.

(3) Only single use towels from a covered dispenser or an electric hand-drying device may be used to dry hands.

(4) The provider shall ensure that toilet paper is accessible to children, and that it is kept on a dispenser.

(5) The provider shall post handwashing procedures that are readily visible from each handwashing sink, and they shall be followed.

(6) Caregivers shall teach children proper hand washing techniques and shall oversee hand washing whenever possible.

(7) Personal hygiene items such as toothbrushes, or combs and hair accessories that are not sanitized between each use, shall not be shared by children or used by staff on more than one child, and shall be stored so that they do not touch each other.

(8) The provider shall clean and sanitize all washable toys and materials weekly, or more often if necessary.

(9) Stuffed animals, cloth dolls, and dress-up clothes must be machine washable. Pillows must be machine washable, or have

removable covers that are machine washable. The provider shall wash stuffed animals, cloth dolls, dress-up clothes, and pillows or covers weekly.

(10) If water play tables or tubs are used, they shall be washed and sanitized daily, and children shall wash their hands prior to engaging in the activity.

(11) Persons with contagious TB shall not work or volunteer in the center.

(12) Children's clothing shall be changed promptly if they have a toileting accident.

(13) Children's clothing which is wet or soiled from body fluids:

(a) shall not be rinsed or washed at the center; and

(b) shall be placed in a leakproof container, labeled with the child's name, and returned to the parent.

(14) If the center uses a potty chair, the provider shall clean and sanitize the chair after each use.

(15) Staff who prepare food in the kitchen shall not change diapers or assist in toileting children.

(16) The center shall have a portable body fluid clean up kit.

(a) All staff shall know the location of the kit and how to use it.

(b) The provider shall use the kit to clean up spills of body fluids.

(c) The provider shall restock the kit as needed.

(17) The center shall not care for children who are ill with an infectious disease, except when a child shows signs of illness after arriving at the center.

(18) The provider shall separate children who develop signs of an infectious disease after arriving at the center from the other children in a safe, supervised location.

(19) The provider shall contact the parents of children who are ill with an infectious disease and ask them to immediately pick up their child. If the provider cannot reach the parent, the provider shall contact the individuals listed as emergency contacts for the child and ask them to pick up the child.

(20) The provider shall notify the local health department, on the day of discovery, of any reportable infectious diseases among children or caregivers, or any sudden or extraordinary occurrence of a serious or unusual illness, as required by the local health department.

(21) The provider shall post a parent notice at the center when any staff or child has an infectious disease or parasite.

(a) The provider shall post the notice in a conspicuous location where it can be seen by all parents.

(b) The provider shall post and date the notice the same day the disease or parasite is discovered, and the notice shall remain posted for at least 5 days.

#### **R381-100-17. Medications.**

(1) If medications are given, they shall be administered to children only by a provider trained in the administration of medications as specified in this rule.

(2) All over-the-counter medications provided by parents and all prescription medications shall:

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

(b) be kept in the original or pharmacy container;

(c) have the original label; and

(d) have child-safety caps.

(3) All non-refrigerated medications shall be inaccessible to children and stored in a container or area that is locked, such as a locked room, cupboard, drawer, or a lockbox. The provider shall store all refrigerated medications in a leakproof container.

(4) The provider shall have a written medication permission form completed and signed by the parent prior to administering any over-the-counter or prescription medication to a child. The permission form must include:

- (a) the name of the child;
- (b) the name of the medication;
- (c) written instructions for administration; including:
  - (i) the dosage;
  - (ii) the method of administration;
  - (iii) the times and dates to be administered; and
  - (iv) the disease or condition being treated; and
- (d) the parent signature and the date signed.

(5) If the provider keeps over-the-counter medication at the center that is not brought in by a parent for their child's use, the medication shall not be administered to any child without prior parental consent for each instance it is given. The consent must be either:

- (a) prior written consent; or
- (b) oral consent for which a provider documents in writing the date and time of the consent, and which the parent or person picking up the child signs upon picking up the child.

(6) If the provider chooses not to administer medication as instructed by the parent, the provider shall notify the parent of their refusal to administer the medication prior to the time the medication needs to be given.

(7) When administering medication, the provider administering the medication shall:

- (a) wash their hands;
- (b) check the medication label to confirm the child's name;
- (c) compare the instructions on the parent release form with the directions on the prescription label or product package to ensure that a child is not given a dosage larger than that recommended by the health care provider or the manufacturer;
- (d) administer the medication; and
- (e) immediately record the following information:
  - (i) the date, time, and dosage of the medication given;
  - (ii) the signature or initials of the provider who administered the medication; and,
  - (iii) any errors in administration or adverse reactions.

(8) The provider shall report any adverse reaction to a medication or error in administration to the parent immediately upon recognizing the error or reaction, or after notifying emergency personnel if the reaction is life threatening.

#### **R381-100-18. Napping.**

(1) The center shall provide children with a daily opportunity for rest or sleep in an environment that provides subdued lighting, a low noise level, and freedom from distractions.

(2) Scheduled nap times shall not exceed two hours daily.

(3) A separate crib, cot, mat, or other sleeping equipment shall be used for each child during nap times.

(4) Mats and mattresses used for napping shall have a smooth, waterproof surface.

(5) The provider shall maintain sleeping equipment in good repair.

(6) If sleeping equipment is clearly assigned to and used by an individual child, the provider must clean and sanitize it as needed, but at least weekly.

(7) If sleeping equipment is not clearly assigned to and used by an individual child, the provider must clean and sanitize it prior to each use.

(8) The provider must either store sleeping equipment so that the surfaces children sleep on do not touch each other, or else clean and sanitize sleeping equipment prior to each use.

(9) A sheet and blanket or acceptable alternative shall be used by each child during nap time. These items shall be:

- (a) clearly assigned to one child;
- (b) stored separately from other children's when not in use; and,

(c) laundered as needed, but at least once a week, and prior to use by another child.

(10) The provider shall space cribs, cots, and mats a minimum of 2 feet apart when in use, to allow for adequate ventilation, easy access, and ease of exiting.

(11) Cots and mats may not block exits.

#### **R381-100-19. Child Discipline.**

(1) The provider shall inform caregivers, parents, and children of the center's behavioral expectations for children.

(2) The provider may discipline children using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.

(3) Caregivers may use gentle, passive restraint with children only when it is needed to stop children from injuring themselves or others or from destroying property.

(4) Discipline measures shall not include any of the following:

(a) any form of corporal punishment such as hitting, spanking, shaking, biting, pinching, or any other measure that produces physical pain or discomfort;

(b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds that specified in Subsection (3) above.

(c) shouting at children;

(d) any form of emotional abuse;

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

(f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.

#### **R381-100-20. Activities.**

(1) The provider shall post a daily schedule for preschool and school-age groups. The daily schedule shall include, at a minimum, meal, snack, nap/rest, and outdoor play times.

(2) Daily activities shall include outdoor play if weather permits.

(3) The provider shall offer activities to support each child's healthy physical, social-emotional, and cognitive-language development. The provider shall post a current activity plan for parent review listing these activities in preschool and school age groups.

(4) The provider shall make the toys and equipment needed to carry out the activity plan accessible to children.

(5) If off-site activities are offered:

(a) the provider shall obtain written parental consent for each activity in advance;

\_\_\_\_\_ (b) caregivers shall take written emergency information and releases with them for each child in the group, which shall include:

- \_\_\_\_\_ (i) the child's name;
- \_\_\_\_\_ (ii) the parent's name and phone number;
- \_\_\_\_\_ (iii) the name and phone number of a person to notify in the event of an emergency if the parent cannot be contacted;
- \_\_\_\_\_ (iv) the names of people authorized by the parents to pick up the child; and
- \_\_\_\_\_ (v) current emergency medical treatment and emergency medical transportation releases;

\_\_\_\_\_ (c) the provider shall maintain required caregiver to child ratios and direct supervision during the activity;

\_\_\_\_\_ (d) at least one caregiver present shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification;

\_\_\_\_\_ (e) caregivers shall take a first aid kit with them;

\_\_\_\_\_ (f) children shall wear or carry with them the name and phone number of the center, but children's names shall not be used on name tags, t-shirts, or other identifiers; and

\_\_\_\_\_ (g) caregivers shall provide a way for children to wash their hands as specified in R381-100-16(2). If there is no source of running water, caregivers and children may clean their hands with wet wipes, and hand sanitizer.

\_\_\_\_\_ (6) If swimming activities are offered, caregivers shall remain with the children during the activity, and lifeguards and pool personnel shall not count toward the caregiver to child ratio.

#### **R381-100-21. Transportation.**

\_\_\_\_\_ (1) Any vehicle used for transporting children shall:

- \_\_\_\_\_ (a) be enclosed;
- \_\_\_\_\_ (b) be equipped with individual, size appropriate safety restraints, properly installed and in working order, for each child being transported;
- \_\_\_\_\_ (c) have a current vehicle registration and safety inspection;
- \_\_\_\_\_ (d) be maintained in a safe and clean condition;
- \_\_\_\_\_ (e) maintain temperatures between 60-90 degrees Fahrenheit when in use;
- \_\_\_\_\_ (f) contain a first aid kit; and
- \_\_\_\_\_ (g) contain a body fluid clean up kit.

\_\_\_\_\_ (2) At least one adult in each vehicle transporting children shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification.

\_\_\_\_\_ (3) The adult transporting children shall:

- \_\_\_\_\_ (a) have and carry with them a current valid Utah driver's license, for the type of vehicle being driven, whenever they are transporting children;
- \_\_\_\_\_ (b) have with them written emergency contact information for all of the children being transported;
- \_\_\_\_\_ (c) ensure that each child being transported is wearing an appropriate individual safety restraint;
- \_\_\_\_\_ (d) ensure that no child is left unattended by an adult in the vehicle;
- \_\_\_\_\_ (e) ensure that all children remain seated while the vehicle is in motion;
- \_\_\_\_\_ (f) ensure that keys are never left in the ignition when the driver is not in the driver's seat; and
- \_\_\_\_\_ (g) ensure that the vehicle is locked during transport.

#### **R381-100-22. Animals.**

\_\_\_\_\_ (1) The provider shall inform parents of the types of animals permitted at the facility.

\_\_\_\_\_ (2) All animals at the facility shall be clean and free of obvious disease or health problems that could adversely affect children.

\_\_\_\_\_ (3) All animals at the facility shall have current immunizations for all vaccine preventable diseases that are transmissible to humans. The center shall have documentation of the vaccinations.

\_\_\_\_\_ (4) There shall be no animal on the premises that has a history of dangerous, attacking, or aggressive behavior, or a history of biting even one person.

\_\_\_\_\_ (5) Infants, toddlers, and preschoolers shall not assist with the cleaning of animals or animal cages, pens, or equipment.

\_\_\_\_\_ (6) If a school age child assists in the cleaning of animals or animal equipment, the child shall wash his or her hands immediately after cleaning the animal or equipment.

\_\_\_\_\_ (7) There shall be no animals or animal equipment in food preparation or eating areas.

\_\_\_\_\_ (8) Children shall not handle reptiles or amphibians.

#### **R381-100-23. Diapering.**

\_\_\_\_\_ If the center diapers children, the following applies:

\_\_\_\_\_ (1) Caregivers shall change children's diapers at a diaper changing station. Diapers shall not be changed on surfaces used for any other purpose.

\_\_\_\_\_ (2) Each diapering station shall be equipped with railings to prevent a child from falling when being diapered.

\_\_\_\_\_ (3) Caregivers shall not leave children unattended on the diapering surface.

\_\_\_\_\_ (4) The diapering surface shall be smooth, waterproof, and in good repair.

\_\_\_\_\_ (5) The provider shall post diapering procedures at each diapering station and ensure that they are followed.

\_\_\_\_\_ (6) Caregivers shall clean and sanitize the diapering surface after each diaper change.

\_\_\_\_\_ (7) Caregivers shall wash their hands before and after each diaper change.

\_\_\_\_\_ (8) Caregivers shall place soiled disposable diapers in a container that has a plastic lining and a tightly fitting lid.

\_\_\_\_\_ (9) The provider shall daily clean and sanitize containers where wet and soiled diapers are placed.

\_\_\_\_\_ (10) If cloth diapers are used:

\_\_\_\_\_ (a) they shall not be rinsed at the center; and

\_\_\_\_\_ (b) after a diaper change, the caregiver shall place the cloth diaper directly into a leakproof container that is inaccessible to children and labeled with the child's name, or a leakproof diapering service container.

\_\_\_\_\_ (11) Caregivers shall change children's diapers promptly when they are wet or soiled, and shall check diapers at least once every two hours.

\_\_\_\_\_ (12) Caregivers shall keep a written record daily for each infant and toddler documenting their diaper changes. The record shall be completed within an hour of each diaper change, and shall include the child's name, the time of the diaper change, and whether the diaper was dry, wet, soiled, or both.

(13) Care givers whose designated responsibility includes the care of diapered children shall not prepare food for children or staff outside of the classroom area used by the diapered children.

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

If the center cares for infants or toddlers, the following applies:

(1) The provider shall not mix infants and toddlers with older children, unless there are 8 or fewer children present in the group.

(2) Infants and toddlers shall not use outdoor play areas at the same time as older children unless there are 8 or fewer children present in the group.

(3) If an infant is not able to sit upright and hold their own bottle, a caregiver shall hold the infant during bottle feeding. Bottles shall not be propped.

(4) The provider shall clean and sanitize high chair trays prior to each use.

(5) The provider shall cut solid foods for infants into pieces no larger than 1/4 inch in diameter. The provider shall cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.

(6) Baby food, formula, and breast milk that is brought from home for an individual child's use must be:

(a) labeled with the child's name;

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

(c) kept refrigerated if needed; and

(d) discarded within 24 hours of preparation or opening, except that powdered formula or dry foods which are opened, but are not mixed, are not considered prepared.

(7) Formula and milk, including breast milk, shall be discarded after feeding, or within two hours of initiating a feeding.

(8) To prevent burns, heated bottles shall be shaken and tested for temperature before being fed to children.

(9) Pacifiers, bottles, and non-disposable drinking cups shall be labeled with each child's name, and shall not be shared.

(10) Only one infant or toddler shall occupy any one piece of equipment at any time, unless the equipment has individual seats for more than one child.

(11) Infants shall sleep in equipment designed for sleep such as a crib, bassinet, porta-crib or play pen. Infants shall not be placed to sleep on mats or cots, or in bouncers, swings, car seats, or other similar pieces of equipment.

(12) Cribs must:

(a) have tight fitting mattresses;

(b) have slats spaced no more than 2-3/8 inches apart;

(c) have at least 20 inches from the top of the mattress to the top of the crib rail; and

(d) not have strings, cords, ropes, or other entanglement hazards strung across the crib rails.

(13) Infants shall not be placed on their stomachs for sleeping, unless there is documentation from a health care provider for treatment of a medical condition.

(14) Each infant and toddler shall follow their own pattern of sleeping and eating.

(15) Caregivers shall keep a written record daily for each infant documenting their eating and sleeping patterns. The record shall be completed within an hour of each feeding or nap, and shall include

the child's name, the food and beverages eaten, and the times the child slept.

(16) Walkers with wheels are prohibited.

(17) Infants and toddlers shall not have access to objects made of styrofoam.

(18) Caregivers shall respond as promptly as possible to infants and toddlers who are in emotional distress due to conditions such as hunger, fatigue, wet or soiled diapers, fear, teething, or illness.

(19) Awake infants and toddlers shall receive positive physical stimulation and positive verbal interaction with a caregiver at least once every 20 minutes.

(20) Awake infants and toddlers shall not be confined for more than 30 minutes in one piece of equipment, such as swings, high chairs, cribs, play pens, or other similar pieces of equipment.

(21) Mobile infants and toddlers shall have freedom of movement in a safe area.

(22) To stimulate their healthy development, there shall be safe toys accessible to infants and toddlers. There shall be enough toys for each child in the group to be engaged in play with toys.

(23) All toys used by infants and toddlers shall be cleaned and sanitized:

(a) weekly;

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

(c) after being contaminated by body fluids.

**R381-100-25. Penalty.**

The Department may impose civil money penalties in accordance with Title 63, Chapter 46b, Administrative Procedures Act, if there has been a failure to comply with the provisions of this chapter, or rules promulgated pursuant to this chapter.

**KEY: child care facilities, child care, child care centers**

**Date of Enactment or Last Substantive Amendment: 2015**

**Authorizing, and Implemented or Interpreted Law: 26-39-203(1)**

**(a)**

Health, Family Health and  
Preparedness, Children with Special  
Health Care Needs

**R398-30**

Children's Organ Transplants

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 39133

FILED: 02/09/2015

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this filing moves the rule from Health Care Financing, Coverage and Reimbursement (Title R414) to Family Health and Preparedness, Children with Special Health Care Needs (Title R398) where Committee oversight resides.

**SUMMARY OF THE RULE OR CHANGE:** The Kurt Oscarson Children's Organ Transplant Fund (Title 26, Chapter 18a) was established in 1992. This statute provides financial assistance for children who require organ transplants. The purpose of this filing is to move the rule from Health Care Financing, Coverage and Reimbursement to Family Health and Preparedness, Children with Special Health Care Needs where Committee oversight resides. The rule also updates management responsibilities, clarifies implementation and defines the intent of the statute. (DAR NOTE: The proposed repeal of Rule R414-10B is under DAR No. 39134 in this issue, March 1, 2015, of the Bulletin.)

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 26, Chapter 18a

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** The Bureau will incur a minimal cost of approximately \$50 to \$100 to send post cards to families and to reprint the rule.
- ◆ **LOCAL GOVERNMENTS:** The proposed rule does not affect local government because the new rule will continue to implement current requirements.
- ◆ **SMALL BUSINESSES:** The proposed rule does not affect small businesses because the new rule will continue to implement current requirements.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed rule clarifies statutory requirement and therefore should not have an additional fiscal impact.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The proposed rule clarifies statutory requirement and therefore should not have an additional fiscal impact.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is no impact to business because the rule does not make any changes to requirements that previously existed under the former Rule R414-10B.

**THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:**

HEALTH  
FAMILY HEALTH AND PREPAREDNESS,  
CHILDREN WITH SPECIAL HEALTH CARE NEEDS  
44 N MARIO CAPECCHI DR  
SALT LAKE CITY, UT 84113  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Joyce McStotts by phone at 801-584-8239, by FAX at 801-584-8488, or by Internet E-mail at jmcstotts@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2015**

**THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2015**

**AUTHORIZED BY:** David Patton, PhD, Executive Director

**R398. Health, Family Health and Preparedness, Children with Special Health Care Needs.**

**R398-30. Children's Organ Transplants.**

**R398-30-1. Authority and Purpose.**

- (1) Authority for this rule is found in Title 63G, Chapter 3.
- (2) The purpose of this rule is to set forth the process and criteria to determine eligibility for and the awarding of financial assistance to children who need organ transplants.

**R398-30-2. Definitions.**

- (1) "Recipient" means a person who:
  - (a) is under the age of 18;
  - (i) is listed for an organ transplant or has received a transplant;
  - (ii) has resided, or whose legal guardian has resided in Utah for at least six months prior to applying for financial assistance; and
  - (b) maintains Utah residency while using the fund.
- (2) "Initial Medical Expenses" means medical expenses incurred from evaluation of transplant need until two years post transplant or until the age of 18. This includes: assessments and evaluations of prospective listed organ transplant recipients and potential organ donors, surgical costs, treatment, COBRA payments, and spend-downs or other related costs for Medicaid or other public assistance eligibility, but does not include travel and living expenses for recipients or families.
- (3) "Responsible party" means the adult individual who signed the transplant fund contract for the transplant recipient in order to receive the financial assistance.

**R398-30-3. Allowable Medical Expenses and Organ Transplants.**

Recipients may apply for financial assistance for eligible medical expenses for any type and as many organ transplants as needed for the recipient up until age 18. Each recipient shall have a maximum lifetime benefit of \$10,000 based on the fund availability and balance. The committee may award a lower lifetime benefit. The fund may pay eligible expenses up to age 20 for services rendered to the recipient while under the age of 18.

**R398-30-4. Application Review and Determining Eligibility.**

- (1) Eligibility for awarding financial assistance shall be based on:
  - (a) documentation, through physician assessment and evaluation;
  - (b) whether the person is listed or has received an organ transplant;
  - (c) verification and status of prior application efforts to other funding sources such as: Medicaid, CHIP, and SSI;
  - (d) submission by the applicant of a current Patient Financial Responsibility form; and
  - (e) committee review of an approved Kurt Oscarson Fund application.
- (2) If the recipient account is closed, the recipient, upon reapplication, will receive a priority review of a new application, so long as the recipient meets eligibility criteria at the time of reapplication.

**R398-30-5. Awarding Financial Assistance to Recipients.**

(1) Prior to awarding financial assistance the committee shall review the recipient's application for assistance to determine:

(a) the needs of the recipient both physically and financially; and

(b) the existence of other financial assistance including availability of insurance or other state aid.

(2) Each listed or transplant recipient must apply for Medicaid, Children's Health Insurance Program assistance, or other public health coverage provided by the state, before the committee agrees to award any financial assistance.

(3) As part of the review process, the responsible party of the recipient shall sign a release to allow all medical records of the child to be released to the Utah Department of Health.

(4) As a part of the review process, the Committee shall consider:

(a) the success rate of the particular organ transplant procedure needed by the child; and

(b) the extent of the threat to the child's life without the organ transplant.

(5) In addition, the committee shall consider the availability of funds in the Children's Organ Transplant fund before awarding financial assistance. The committee may create a waiting list and prioritize the list by financial and medical need. A financial assistance award is not an entitlement. The Children's Organ Transplant fund should not incur a deficit.

(6) The Utah Department of Health shall create a recipient file which shall include information such as: the application, related documentation, correspondence, repayment plans, repayment amounts and the approved contract. This file and documentation will be stored securely for 10 years after the recipient reaches the age of 18.

(7) The committee may review and determine if the recipient is ineligible to receive funds when:

(a) the recipient's account has been reviewed and found to be inactive for two years;

(b) the Utah Department of Health has made three documented attempts to contact the responsible party or recipient to discuss inactivity without response;

(c) there is a violation of the terms of the executed contract;

(d) two years have passed since the transplant; or

(e) the recipient is no longer a Utah resident.

**R398-30-6. Terms for Repayment of Financial Assistance Loans.**

(1) Financial assistance shall be given in the form of an interest free loan. Terms, including amount and time frame for repayment of loans shall be set forth in an initial contract as agreed to by the responsible party and the Utah Department of Health;

(2) Repayment shall be determined by the Committee prior to the contract being signed;

(3) Medical expenses shall be submitted within 24 months after an eligible service was rendered;

(4) Repayments shall begin monthly starting 24 months after the first check has been issued from the Kurt Oscarson Fund;

(5) The Utah Department of Health shall send out annual invoices on the account status and repayment amount to the responsible party;

(6) The responsible party will be accountable for repayment of the loan; and

(7) The account may go to collections if repayment is not received within the established timeframe as outlined in the contract.

**R398-30-7. Waiver or Adjustment of Loan Repayment.**

Prior to an account going to collections or if requested by the responsible party, the Committee shall review the file and circumstances involved to determine if an adjustment or waiver should be made to the repayment amount or conditions.

**KEY: organ transplants**

**Date of Enactment or Last Substantive Amendment: 2015**

**Authorizing, and Implemented or Interpreted Law: 26-1-5**

## Health, Health Care Financing, Coverage and Reimbursement Policy **R414-10B** Children's Organ Transplants

**NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE NO.: 39134

FILED: 02/09/2015

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The Division of Medicaid and Health Financing (DMHF) will repeal this rule because the Kurt Oscarson Children's Organ Transplant Fund resides with the Division of Family Health and Preparedness (DFHP), thus giving DFHP rulemaking authority. DFHP, therefore, will file a new rule to keep requirements for children's organ transplants ongoing and effective.

**SUMMARY OF THE RULE OR CHANGE:** DMHF has no authority over this rule. It will be reenacted under DFHP. This rule is repealed in its entirety. (DAR NOTE: The proposed new Rule R398-30 is under DAR No. 39133 in this issue, March 1, 2015, of the Bulletin.)

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 26-1-5 and Section 26-18-3

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** This rule repeal does not affect the state budget because the new rule will continue to implement current requirements and future changes to organ transplant policy.

◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they neither fund nor provide Medicaid services to Medicaid recipients.

◆ **SMALL BUSINESSES:** This rule repeal does not affect small businesses because the new rule will continue to implement current requirements and future changes to organ transplant policy.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: This rule repeal does not affect Medicaid providers, Medicaid recipients, CHIP providers, and CHIP recipients because the new rule will continue to implement current requirements and future changes to organ transplant policy.

COMPLIANCE COSTS FOR AFFECTED PERSONS: This rule repeal does not affect a single Medicaid provider, Medicaid recipient, CHIP provider, or CHIP recipient because the new rule will continue to implement current requirements and future changes to organ transplant policy.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is no impact to business because the new rule will continue to implement current requirements.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH  
HEALTH CARE FINANCING,  
COVERAGE AND REIMBURSEMENT POLICY  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY, UT 84116-3231  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2015

AUTHORIZED BY: David Patton, PhD, Executive Director

#### **R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

##### **[R414-10B. Children's Organ Transplants.**

###### **R414-10B-1. Authority and Purpose.**

- \_\_\_\_\_ (1) Authority for this rule is found in Title 63G, Chapter 3.
- \_\_\_\_\_ (2) The purpose of this rule is to set forth criteria to determine eligibility for and the awarding of financial assistance to children who need organ transplants.

###### **R414-10B-2. Definitions.**

- \_\_\_\_\_ (1) "Eligible recipient" means a person who is 18 years of age or younger at the time an application for financial assistance is made and who has resided, or whose legal guardian has resided, within the state for at least six months prior to applying for financial assistance.
- \_\_\_\_\_ (2) "Initial Medical Expenses" include assessments and evaluations of prospective organ transplant recipients and potential

organ donors, actual surgical costs, post-operative care or treatment, COBRA payments, and spenddowns or other related costs for Medicaid or other public assistance eligibility, but does not include travel and living expenses for recipients or families.

###### **R414-10B-3. Allowable Medical Expenses and Organ Transplants.**

\_\_\_\_\_ Eligible recipients may apply for financial assistance for eligible medical expenses for any type of organ transplant. Each recipient shall have a maximum lifetime benefit of \$10,000.

###### **R414-10B-4. Determining Eligibility.**

\_\_\_\_\_ Eligibility for awarding financial assistance shall be based on:

- \_\_\_\_\_ (1) whether the person is an eligible recipient; and
- \_\_\_\_\_ (2) documentation, through physician assessment and evaluation, of the need for the organ transplant.

###### **R414-10B-5. Awarding Financial Assistance to Eligible Recipients.**

\_\_\_\_\_ (1) Prior to awarding financial assistance the committee shall review the recipient's request for assistance to determine:

- \_\_\_\_\_ (a) the needs of the eligible recipient both physically and financially; and
- \_\_\_\_\_ (b) the existence of other financial assistance including availability of insurance or other state aid.

\_\_\_\_\_ (2) Each eligible recipient must apply for applicable Medicaid, Medicaid disability, and Children's Health Insurance Program assistance before the committee agrees to award any financial assistance. This does not preclude the committee from using funds to negotiate with transplant centers or hospitals to place the name of the eligible recipient on a waiting list for an organ transplant.

\_\_\_\_\_ (3) As part of the review process a legal guardian of the eligible recipient must sign a release to allow all medical records of the child to be released to the Department of Health. The Department of Health shall provide assistance to the committee by determining:

- \_\_\_\_\_ (a) that the proposed organ transplant is not experimental; and
- \_\_\_\_\_ (b) the extent of the threat to the child's life without the organ transplant.

\_\_\_\_\_ (4) In addition, the committee must consider the availability of funds in the Children's Organ Transplant trust account before awarding financial assistance.

###### **R414-10B-6. Terms for Repayment of Financial Assistance Loans.**

\_\_\_\_\_ Financial assistance shall be given in the form of an interest free loan. Terms, including amount and time frame for repayment of loans shall be set forth in a contract as agreed to by both parties.

###### **R414-10B-7. Waiver of Loan Repayment.**

\_\_\_\_\_ Applicants may request that all or part of the repayment due under the contract for financial assistance be waived by the committee. As a condition of granting a waiver, the committee shall make a finding that repayment of the financial assistance would impose an undue financial burden on the child.

###### **R414-10B-8. Organ Donor Awareness Activities.**

\_\_\_\_\_ The committee shall adopt policies for the award of funds from the Children's Organ Transplant trust account for Organ Donor Awareness Activities.



~~KEY: organ transplants~~

~~Date of Enactment or Last Substantive Amendment: February 17, 2000~~

~~Notice of Continuation: December 2, 2013~~

~~Authorizing, and Implemented or Interpreted Law: 26-1-5]~~

Health, Health Care Financing,  
Coverage and Reimbursement Policy  
**R414-14A**  
Hospice Care

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 39142

FILED: 02/17/2015

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to implement recommendations made by the Office of Inspector General (OIG) following an audit of the Medicaid Hospice Care program in 2014.

SUMMARY OF THE RULE OR CHANGE: This amendment requires an independent physician review when a hospice patient reaches 12 or more months of consecutive hospice care. It also specifies criteria for prior authorization as it relates to hospice election periods, and prohibits "debility" and "adult failure to thrive" as sole primary terminal diagnoses.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 42 U.S.C. 1396d(o) and Section 26-1-5 and Section 26-18-3

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: Savings to the state budget may coincide with these new eligibility requirements. Nevertheless, there is not enough data to estimate the fiscal impact at this time.
- ◆ LOCAL GOVERNMENTS: There is no impact to local governments because they do not fund or provide Medicaid services to Medicaid recipients.
- ◆ SMALL BUSINESSES: Some costs to small businesses may coincide with these new eligibility requirements. Nevertheless, there is not enough data to estimate the fiscal impact at this time.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Some costs to hospice care providers and to hospice care recipients may coincide with these new eligibility requirements. Nevertheless, there is not enough data to estimate the fiscal impact at this time.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Some costs to a hospice care provider or to a hospice care recipient may coincide with these new eligibility requirements. Nevertheless, there is not enough data to estimate the fiscal impact at this time.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment may have some effect on businesses related to hospice care in that it changes eligibility requirements for hospice care recipients, but current data is insufficient to estimate the fiscal impact at this time.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH  
HEALTH CARE FINANCING,  
COVERAGE AND REIMBURSEMENT POLICY  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY, UT 84116-3231  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
◆ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2015

AUTHORIZED BY: David Patton, PhD, Executive Director

**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**R414-14A. Hospice Care.**

**R414-14A-3. Client Eligibility Requirements.**

- (1) A client who is terminally ill may obtain hospice care pursuant to this rule.
- (2) A client's certification of a terminal condition required for hospice eligibility must be based on a face-to-face assessment by a physician conducted no more than 90 days prior to the date of enrollment.
- (3) A client dually enrolled in Medicare and Medicaid must elect the hospice benefit for both Medicare and Medicaid. The client must receive hospice coverage under Medicare. Election for the Medicaid hospice benefit provides the client coverage for Medicare co-insurance and coverage for room and board expenses while a resident of a Medicare-certified nursing facility, intermediate care facility for people with an intellectual disability (ICF/ID), or freestanding hospice facility.
- (4) Primary diagnoses of "debility" and "adult failure to thrive" do not meet eligibility criteria for Medicaid hospice care if the

patient does not have a least one other more definitive co-occurring principle terminal diagnosis.

#### **R414-14A-6. Hospice Election.**

(1) A client who meets the eligibility requirement for Medicaid hospice must file an election statement with a particular hospice. If the client cannot cognitively make informed health care decisions or is under 18 years of age, the client's legally authorized representative may file the election statement.

(2) Each hospice provider designs and prints his own election statement. The election statement must include the following:

(a) identification of the particular hospice that will provide care to the client;

(b) the client's or representative's acknowledgment that he or she has been given a full understanding of the palliative rather than curative nature of hospice care, as it relates to the client's terminal illness;

(c) for adult clients, acknowledgment that the client waives certain Medicaid services as set forth in Section R414-14A-9;

(d) acknowledgment that the client or representative may revoke the election of the hospice benefit at any time in the future and therefore become eligible for Medicaid services waived at the time of hospice election as set forth in Section R414-14A-8; and

(e) the signature of the client or representative.

(3) The effective date of the election may be the first day of hospice care or a later date, but may be no earlier than the date of the election statement

(4) An election to receive hospice care remains effective through the initial election period and through the subsequent election periods without a break in care as long as the client:

(a) remains in the care of a hospice;

(b) does not revoke the election; and

(c) is not discharged from the hospice.

(5) The hospice provider must notify the Department at the time a Medicaid client selects the hospice benefit, including selecting the hospice provider under a change of designated hospice. The notification must include a copy of the hospice election statement and the physician's certification of terminal illness for hospice care. Authorization for reimbursement of hospice care begins no earlier than the date notification is received by the Department for an eligible Medicaid client, except as provided in Section R414-14A-20.

(6) Subject to the conditions set forth in this rule, a client may elect to receive hospice care during one or more of the following election periods:

(a) an initial 90-day period;

(b) a subsequent 90-day period; or

(c) an unlimited number of subsequent 60-day periods.

(7) The Department may only grant prior authorization for hospice care in alignment with the election periods defined in Subsection R414-14A-6(6).

#### **R414-14A-13. Extended Hospice Care.**

(1) ~~[Clients]~~Adult patients who accumulate 12 or more consecutive months of hospice benefits are subject to an independent utilization review by a physician ~~[with expertise in end-of-life and hospice care selected by the Department.]~~who is not affiliated with the hospice agency. Independent reviews are subsequently required every 12 months thereafter if the patient continues to receive extended hospice care. 12 consecutive months means 12 months in a row

wherein a hospice provides Medicaid hospice care during any portion of each month.

(2) If Medicare determines that a patient is no longer eligible for Medicare reimbursement for hospice services, the patient will no longer be eligible for Medicaid reimbursement for hospice services. Providers must immediately notify Medicaid upon learning of Medicare's determination. Medicaid reimbursement for hospice services will cease the day after Medicare notifies the hospice provider that the client is no longer eligible for hospice care.

#### **R414-14A-20. Notification and Prior Authorization Grace Periods.**

(1) If a new patient is already Medicaid eligible upon admission to hospice care, the hospice provider must submit a prior authorization request form to the Department in order to receive reimbursement for hospice services it renders, except in the following circumstances:

(a) ~~[d]~~During weekend, holidays, and after regular Department business hours, a hospice provider may begin service to a new Medicaid hospice enrollee, including covering room and board, or initiate a different hospice care requiring prior authorization for a grace period up to ten calendar days before notifying the Department;

(b) ~~[b]~~Before the end of the ten calendar day grace period, the hospice provider must complete and submit the prior authorization request form to the Department in order to receive reimbursement for hospice services it renders;

(c) ~~[i]~~If the hospice provider does not submit the prior authorization request form timely, the Department will not reimburse the provider for the care that it renders before the date that the form is received.

(d) The hospice provider must complete and submit with the prior authorization request, the form for independent physician review when an adult patient reaches 12 consecutive months in hospice care. The Department shall deny the prior authorization request if the provider does not include this form with the other required documents, or if this form does not indicate the patient meets ongoing eligibility criteria for Medicaid hospice care.

#### **KEY: Medicaid**

**Date of Enactment or Last Substantive Amendment:** ~~[July 22, 2013]~~**2015**

**Notice of Continuation:** June 17, 2014

**Authorizing, and Implemented or Interpreted Law:** 26-1-4.1; 26-1-5; 26-18-3

## Health, Health Care Financing, Coverage and Reimbursement Policy **R414-38** Personal Care Service

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 39131

FILED: 02/09/2015

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change is to consolidate the scope of personal care services to the Medicaid provider manual.

**SUMMARY OF THE RULE OR CHANGE:** This amendment removes all provisions in the rule text and defers to the scope of services found in the Personal Care Utah Medicaid Provider Manual and in the Medicaid State Plan.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** 42 CFR 440.167 and Section 26-1-5 and Section 26-18-3

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** There is no impact to the state budget because services provided to Medicaid recipients remain unaffected by this change.
- ◆ **LOCAL GOVERNMENTS:** There is no impact to local governments because they do not fund or provide Medicaid services to Medicaid recipients.
- ◆ **SMALL BUSINESSES:** There is no impact to small businesses because services provided to Medicaid recipients remain unaffected by this change.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to Medicaid providers and to Medicaid recipients because services provided to Medicaid recipients remain unaffected by this change.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs to a single Medicaid provider or to a Medicaid recipient because services provided remain unaffected by this change.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is no impact on business because no requirements have been changed by the amendment.

**THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:**

HEALTH  
HEALTH CARE FINANCING,  
COVERAGE AND REIMBURSEMENT POLICY  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY, UT 84116-3231  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Craig Devashrayee by phone at 801-538-6641, by FAX at 801-538-6099, or by Internet E-mail at cdevashrayee@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2015**

**THIS RULE MAY BECOME EFFECTIVE ON:** 04/07/2015

**AUTHORIZED BY:** David Patton, PhD, Executive Director

**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**R414-38. Personal Care Services.**

**R414-38-1. Introduction.**

~~The Personal Care Services program provides a scope of services for Medicaid recipients in accordance with the Personal Care Utah Medicaid Provider Manual and Attachment 4.19-B of the Medicaid State Plan, as incorporated into Section R414-1-5.~~

**[R414-38-1. Introduction and Authority:**

~~Personal Care Service is an optional Medicaid Title XIX service, and is authorized by Section 1905(a)(18) of the Social Security Act and 42 CFR 440.170(f), 1992 ed., which are adopted and incorporated by reference.~~

**R414-38-2. Definitions:**

~~In addition to the definitions in R414-1, the following definitions also apply to this rule:~~

~~(1) "Home health agency" means a public agency or private organization which is licensed by the Department of Health under authority of Title 26, Chapter 21;~~

~~(2) "Relative" means a spouse, parent, step-parent, son, daughter, brother, sister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin, or any person denoted by the prefix "grand" or "great", or the spouse of any of the persons specified in this definition, even if the marriage has been terminated by death or dissolution;~~

**R414-38-3. Client Eligibility Requirements:**

~~Personal care service is available to categorically and medically needy individuals who meet the following conditions:~~

~~(1) The client is non-bedbound;~~

~~(2) The client is unable to perform two or more of the following personal care tasks:~~

~~(a) self-administration of medications due to memory lapse;~~

~~(b) body waste elimination, including the use of a urinal, commode, or bedpan;~~

~~(c) bathing or showering, including getting in or out of the tub or shower;~~

~~(d) skin care;~~

~~(e) ambulation, including use of cane, crutches, walker, wheelchair, or other assistive device;~~

~~(f) personal grooming, including oral care, hair care, shaving (with electric razor), dressing, and nail care;~~

~~(g) nutritional requirements, including meal planning, preparation, cleanup, and motivation to eat;~~

~~(3) The client's family is unable or unwilling to provide the extent of personal care service needed;~~

~~(4) The client needs personal care to:~~

~~(a) maintain the capacity to function, retard disease progression, or prevent regression and complications; or~~

~~(b) achieve satisfactory level of comfort and dignity during terminal stages of an illness; or~~

~~(c) receive assistance while recovering from an acute condition.~~

**R414-38-4. Program Access Requirements.**

- ~~(1) A physician must prescribe the necessary personal care services.~~
- ~~(2) Only a home health agency licensed in accordance with Title 26, Chapter 21, may provide personal care services.~~
- ~~(3) Only a personal care aide or home health aide (performing only personal care level tasks) who has obtained a certificate of completion from the State Office of Education, or a licensed practical nurse, or a registered nurse, may provide the personal care services.~~
- ~~(4) A licensed registered nurse must supervise the providing of personal care services.~~
- ~~(5) Personal care services are a covered service only for clients who receive these services in their residence, not in an institution.~~
- ~~(6) Initially, a licensed registered nurse must complete a personal care assessment to assess the client's functional level, the adaptability of the client's residence to the providing of personal care, and to identify family support systems or individuals willing to assume the responsibility for care when the client is unable to do so. A licensed registered nurse must also complete a personal care assessment at least at the required time of recertification (approximately every six months), or sooner if the client's condition warrants it.~~

**R414-38-5. Service Coverage.**

- ~~(1) Services provided by the personal care provider may include:~~
- ~~(a) reminding the client to take medication, and observing the client who is able to self-administer medication;~~
- ~~(b) providing minimal assistance with, or supervision of, bathing and personal hygiene including shampoo and hair care, skin care according to the client's plan of care, and shaving (with electric razor only);~~
- ~~(c) providing nail care as outlined in the client's plan of care;~~
- ~~(d) providing meal service, including special diets, meal planning, preparation, feeding if necessary, and cleanup;~~
- ~~(e) providing oral hygiene, including tooth or denture care;~~
- ~~(f) assisting with ambulation, including arm support, use of cane, crutches, walker, wheelchair, or other assistive device;~~
- ~~(g) assisting with bladder and bowel requirements or problems, including helping the client to and from the bathroom, or assisting non-bedbound clients with bedpan routines, but excluding assistance with enemas, suppositories, or ostomy care;~~
- ~~(h) making brief occasional trips outside the home for the client to receive medical examination or treatment, or for shopping to meet the client's health care or nutritional needs;~~
- ~~(i) taking proper measures for the client's safety and comfort, including good hand washing techniques, proper disposal of body waste, and explanation and application of smoking precautions;~~
- ~~(j) administering emergency first aid;~~
- ~~(k) observing and reporting significant changes in the client or the home environment;~~
- ~~(l) performing household services (if related to a medical need) as are essential to the client's health and comfort in the home, e.g., changing of bed linens, or rearranging furniture to enable the client to move about more easily in the home.~~

~~(2) Medicaid may not reimburse the home health agency for personal care services provided by the client's relatives.~~

~~(3) Providers may not provide personal care services for a client on the same day that Medicaid home health aide services are provided.~~

~~(4) Personal care services are limited to 60 hours per month.~~

**R414-38-6. Plan of Care.**

- ~~(1) The attending physician must write the orders on which the plan of care is established and certify the need for personal care services.~~
- ~~(2) The home health agency staff must develop the plan of care, in consultation with the attending physician and based upon the physician's orders, and deliver the personal care services according to this plan.~~
- ~~(3) The home health agency's licensed registered nurse must sign the plan of care, and incorporate it into the client's permanent record.~~
- ~~(4) The home health agency's licensed registered nurse must record and sign all of the physician's oral orders, and obtain the physician's signature on these orders.~~
- ~~(5) The home health agency staff must alert the attending physician promptly of any changes in the client's condition that suggest a need to alter the plan of care.~~

**R414-38-7. Recertification.**

~~The attending physician must review the total plan of care as often as the severity of the client's functional limitation requires, or at least once every six months. The home health agency's licensed registered nurse must sign this review.~~

**R414-38-8. Supervision.**

~~(1) The licensed registered nurse must make a supervisory visit to the client's residence at least once every two months, to assure that care is adequate and provided according to written instructions.~~

~~(2) The licensed registered nurse may make this visit either when the personal care aide is present to observe and assist, or when the personal care aide is absent, to assess relationships and determine whether goals are being met.]~~

**KEY:** [m]Medicaid

**Date of Enactment or Last Substantive Amendment:** [1993]2015

**Notice of Continuation:** March 7, 2012

**Authorizing, and Implemented or Interpreted Law:** 26-1-5; 26-18-3

Health, Family Health and  
Preparedness, Child Care Licensing  
**R430-60**  
Hourly Child Care Centers

**NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE NO.: 39127

FILED: 02/06/2015

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being repealed because of the creation of the new Child Care Center Licensing Committee.

**SUMMARY OF THE RULE OR CHANGE:** This rule is being repealed because of the creation of the new Child Care Center Licensing Committee. This rule is repealed in its entirety. (DAR NOTE: The proposed new rule R381-60 is under DAR No. 39130 in this issue, March 1, 2015, of the Bulletin.)

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 63G, Chapter 3

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** Repealing this rule will not change any of the requirements for child care programs. Therefore, the Department does not anticipate any new costs or savings to child care programs operated by state agencies.
- ◆ **LOCAL GOVERNMENTS:** Repealing this rule will not change any of the requirements for child care programs. Therefore, the Department does not anticipate any new costs or savings to child care programs operated by state agencies.
- ◆ **SMALL BUSINESSES:** Although almost all child care facilities are small businesses, repealing this rule will not change any of the requirements for child care programs. Therefore, the Department does not anticipate any new costs or savings to child care programs.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because repealing this rule will not change any of the requirements for child care programs, the Department does not anticipate any new costs or savings to entities or persons that are not small businesses.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Because repealing this rule will not change any of the requirements for child care programs, the Department does not anticipate any compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This repeal will have no impact on business because the same rules are being renumbered and established under Title R381.

**THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:**

HEALTH  
 FAMILY HEALTH AND PREPAREDNESS,  
 CHILD CARE LICENSING  
 CANNON HEALTH BLDG  
 288 N 1460 W  
 SALT LAKE CITY, UT 84116-3231  
 or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Simon Bolivar by phone at 801-803-4618, by FAX at 801-237-0786, or by Internet E-mail at sbolivar@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2015**

**THIS RULE MAY BECOME EFFECTIVE ON: 04/13/2015**

**AUTHORIZED BY: David Patton, PhD, Executive Director**

**R430. Health, Family Health and Preparedness, Child Care Licensing.**

~~**[R430-60. Hourly Child Care Centers.**~~

~~**R430-60-1. Authority and Purpose.**~~

~~————— This rule is promulgated pursuant to Title 26, Chapter 39. It establishes standards for the operation and maintenance of hourly child care centers and requirements to protect the health and safety of children in child care centers.~~

~~**R430-60-2. Definitions.**~~

- ~~————— (1) "Accredited College" means a college accredited by an agency recognized by the United States Department of Education as a valid accrediting agency.~~
- ~~————— (2) "ASTM" means American Society for Testing and Materials.~~
- ~~————— (3) "Body fluids" means blood, urine, feces, vomit, mucous, and saliva.~~
- ~~————— (4) "Caregiver" means an employee or volunteer who provides direct care to children.~~
- ~~————— (5) "CPSC" means the Consumer Product Safety Commission.~~
- ~~————— (6) "Department" means the Utah Department of Health.~~
- ~~————— (7) "Designated Play Surface" means a flat surface on a piece of stationary play equipment that a child could stand, walk, sit, or climb on, and is at least 2" by 2" in size.~~
- ~~————— (8) "Direct Supervision" for infants, toddlers, and preschoolers means the caregiver can see and hear all of the children in his or her assigned group, and is near enough to intervene when necessary. "Direct Supervision" for school age children means the caregiver must be able to hear school age children and must be near enough to intervene when necessary.~~
- ~~————— (9) "Emotional Abuse" means behavior that could impair a child's emotional development, such as threatening, intimidating, humiliating, or demeaning a child, constant criticism, rejection, profane language, and inappropriate physical restraint.~~
- ~~————— (10) "Group" means the children assigned to one or two caregivers, occupying an individual classroom or an area defined by furniture or another partition within a room.~~
- ~~————— (11) "Health Care Provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.~~
- ~~————— (12) "Inaccessible to Children" means either locked, such as in a locked room, cupboard or drawer, or with a child safety lock, or in a location that a child can not get to.~~

(13) "Infant" means a child aged birth through 11 months of age.

(14) "Infectious Disease" means an illness that is capable of being spread from one person to another.

(15) "Licensee" means the legally responsible person or persons holding a valid Department of Health child care license.

(16) "Over the Counter Medication" means medication that can be purchased without a written prescription from a health care provider. This includes herbal remedies and vitamin or mineral supplements.

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

(18) "Person" means an individual or a business entity.

(19) "Physical Abuse" means causing nonaccidental physical harm to a child.

(20) "Preschooler" means a child aged 2 through 4, and 5-year-olds who have not yet started kindergarten.

(21) "Protective cushioning" means cushioning material that has been tested to and meets American Society for Testing and Materials (ASTM) Specification F 1292, such as unitary surfaces, wood chips, engineered wood fiber, and shredded rubber mulch. Protective cushioning may also include pea gravel or sand as allowed by the Consumer Product Safety Commission (CPSC).

(22) "Provider" means the licensee or a staff member to whom the licensee has delegated a duty under this rule.

(23) "Sanitize" means to remove soil and small amounts of certain bacteria from a surface or object with a chemical agent.

(24) "School Age" means kindergarten and older age children.

(25) "Sexual Abuse" means abuse as defined in Utah Code, Section 76-5-404.1(2).

(26) "Sexually Explicit Material" means any depiction of sexually explicit conduct, as defined in Utah Code, Section 76-5b-103(10).

(27) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, or play pen.

(28) "Stationary Play Equipment" means equipment such as a climber, a slide, a swing, a merry-go-round, or a spring rocker that is meant to stay in one location when children use it. Stationary play equipment does not include:

(a) a sandbox;

(b) a stationary circular tricycle;

(c) a sensory table; or

(d) a playhouse, if the playhouse has no play equipment, such as a slide, swing, ladder, or climber attached to it.

(29) "Toddler" means a child aged 12 months but less than 24 months.

(30) "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.

(31) "Volunteer" means a person who provides care to a child but does not receive direct or indirect compensation for doing so.

#### **R430-60-3. License Required.**

(1) A person must be licensed as an hourly child care center if he or she:

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

(b) provides care in a place other than the provider's home or the child's home;

(c) provides care for five or more children for four or more hours per day, but not on a regular schedule;

(d) provides care for each individual child for less than 24 hours per day;

(e) provides care that is open to children on an ongoing basis for four or more weeks in a year; and

(f) provides care for direct or indirect compensation.

(2) If five or more children attend the center for four or more hours a day on a regularly scheduled ongoing basis, the center must be licensed under R430-100.

#### **R430-60-4. Facility.**

(1) The licensee shall ensure that any building or playground structure constructed prior to 1978 which has peeling, flaking, chalking, or failing paint is tested for lead based paint. If lead based paint is found, the licensee shall contact the local health department and follow all required procedures for the removal of the lead based paint.

(2) For preschool and younger children, there shall be one working toilet and one working sink for every fifteen children in the center, excluding diapered children. For school age children, there shall be one working toilet and one working sink for every 25 children in the center.

(3) School age children shall have privacy when using the bathroom.

(4) All rooms and occupied areas in the building shall be ventilated by windows that open and have screens or by mechanical ventilation.

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

(6) The provider shall maintain adequate light intensity for the safety of children and the type of activity being conducted by keeping lighting equipment in good working condition.

(7) There shall be at least 35 square feet of indoor space for each child, including the licensee's and employees' children who are not counted in the caregiver to child ratios.

(8) Indoor space per child may include floor space used for furniture, fixtures, or equipment if the furniture, fixture, or equipment is used:

(a) by children;

(b) for the care of children; or

(c) to store classroom materials.

(9) Bathrooms, closets, staff lockers, hallways, corridors, lobbies, kitchens, or staff offices are not included when calculating indoor space for children's use.

#### **R430-60-5. Cleaning and Maintenance.**

(1) The provider shall maintain a clean and sanitary environment.

(2) The provider shall clean and sanitize bathroom surfaces daily, including toilets, sinks, faucets, and counters.

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

(4) The provider shall maintain ceilings, walls, floor coverings, draperies, blinds, furniture, fixtures, and equipment in good repair to prevent injury to children.

(5) The provider shall maintain entrances, exits, steps and outside walkways in a safe condition, and free of ice, snow, and other hazards.

**R430-60-6. Outdoor Environment.**

If the center has an outdoor play area used by children in care, the following rules apply:

(1) The outdoor play area shall be safely accessible to children.

(2) The outdoor play area shall have at least 40 square feet of space for each child using the playground at the same time as other children.

(3) The outdoor play area shall be enclosed within a 4 foot high fence or wall, or a solid natural barrier that is at least 4 feet high. When children play outdoors, they must play in the enclosed play area except during off-site activities described in Section R430-60-20(2).

(4) There shall be no gaps in fences greater than 5 inches at any point, nor shall gaps between the bottom of the fence and the ground be more than 5 inches.

(5) There shall be no openings greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter anywhere in the outdoor play area where children's feet cannot touch the ground.

(6) When in use, the outdoor play area shall be free of animal excrement, harmful plants, objects, or substances, and standing water.

(7) The outdoor play area shall have a shaded area to protect children from excessive sun and heat.

(8) An outdoor source of drinking water, such as a drinking fountain, individually labeled water bottles, or a pitcher of water and individual cups that are taken outside, shall be available to children whenever the outside temperature is 75 degrees or higher.

(9) All outdoor play equipment and areas shall comply with the following safety standards:

(a) All stationary play equipment used by infants and toddlers shall meet the following requirements:

(i) There shall be no designated play surface that exceeds 3 feet in height.

(ii) If the height of a designated play surface or climbing bar on a piece of equipment is greater than 18 inches, it shall have use zones that extend a minimum of 3 feet in all directions from the perimeter of each piece of equipment.

(b) All stationary play equipment used by preschoolers or school age children shall meet the following requirements for use zones:

(i) If the height of a designated play surface or climbing bar on a piece of equipment is greater than 20 inches, it shall have use zones that extend a minimum of 6 feet in all directions from the perimeter of each piece of equipment.

(c) Two-year-olds may play on infant and toddler play equipment.

(d) Protective cushioning is required in all use zones.

(e) If loose material is used as protective cushioning, the depth of the material shall be at least 9 inches. The provider shall ensure that the material is periodically checked for compaction, and if compacted, shall loosen the material. If the material cannot be loosened due to extreme weather conditions, the provider shall not allow children to play on the equipment until the material can be loosened to the required depth.

(f) If a unitary cushioning material, such as rubber mats or poured rubber-like material is used as protective cushioning:

(i) the licensee shall ensure that the material meets the standard established in ASTM Specification F 1292. The provider shall maintain documentation from the manufacturer that the material meets these specifications.

(ii) the licensee shall ensure that the cushioning material is securely installed, so that it cannot become displaced when children jump, run, walk, land, or move on it, or be moved by children picking it up.

(g) Stationary play equipment that has a designated play surface less than the height specified in Table 1, and that does not have moving parts children sit or stand on, may be placed on grass, but shall not be placed on concrete, asphalt, dirt, or any other hard surface.

TABLE 1

Heights of Designated Play Surfaces That May Be Placed on Grass

Infants and Toddlers	Preschoolers	School Age
Less than 18"	Less than 20"	Less than 30"

(10) There shall be no openings greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter on any piece of stationary play equipment, or within or adjacent to the use zone of any piece of stationary play equipment.

(11) There shall be no strangulation hazards on, within the use zone of, or adjacent to the use zone of any piece of stationary play equipment.

(12) There shall be no crush, shearing, or sharp edge hazards on, within the use zone of, or adjacent to the use zone of any piece of stationary play equipment.

(13) There shall be no tripping hazards, such as concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.

(14) The provider shall maintain playgrounds and playground equipment to protect children's safety.

**R430-60-7. Personnel.**

(1) The center must have a director who is at least 21 years of age and who has one of the following:

(a) an associates, bachelors, or graduate degree in child development, early childhood education, elementary education, or recreation from an accredited college;

(b) a college degree in a related field with documented four courses of higher education completed in child development;

(c) valid proof of a level 8, 9, or 10 Utah Early Childhood Career Ladder certification issued by the Utah Office of Child Care or the Utah Child Care Professional Development Institute;

(d) a currently valid national certification such as a Certified Childcare Professional (CCP) issued by the National Child Care Association, a Child Development Associate (CDA) issued by the Council for Early Childhood Professional Recognition, or other credential that the licensee demonstrates as equivalent to the Department; or

(e) a currently valid National Administrator Credential (NAC) issued by the National Child Care Association, plus one of the following:

\_\_\_\_\_ (i) valid proof of successful completion of 12 semester-credit hours of early childhood development courses from an accredited college; or

\_\_\_\_\_ (ii) valid proof of completion of the following six Utah Early Childhood Career Ladder courses offered through Child Care Resource and Referral: Child Development Ages and Stages, Learning in the Early Years, A Great Place for Kids, Strong and Smart, Learning to Get Along, and Advanced Child Development.

\_\_\_\_\_ (f) two years experience in child care, elementary education, or a related field.

\_\_\_\_\_ (2) All caregivers included in the required caregiver to child ratios shall be at least 18 years of age.

\_\_\_\_\_ (3) A volunteer may be included in the provider to child ratio only if the volunteer meets all of the caregiver requirements of this rule.

\_\_\_\_\_ (4) Each new director, assistant director, caregiver, and volunteer shall receive orientation training prior to assuming caregiving duties. Orientation training shall be documented in the caregiver's file and shall include the following topics:

\_\_\_\_\_ (a) specific job responsibilities;

\_\_\_\_\_ (b) the center's emergency and disaster plan;

\_\_\_\_\_ (c) the current child care licensing rules found in Sections R430-60-11 through 24;

\_\_\_\_\_ (d) procedure for releasing children to authorized individuals only;

\_\_\_\_\_ (e) proper clean up of body fluids;

\_\_\_\_\_ (f) signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;

\_\_\_\_\_ (g) obtaining assistance in emergencies, as specified in the center's emergency and disaster plan.

\_\_\_\_\_ (h) If the center provides infant or toddler care, new caregiver orientation training topics shall also include:

\_\_\_\_\_ (i) preventing shaken baby syndrome and coping with crying babies; and

\_\_\_\_\_ (ii) preventing sudden infant death syndrome.

\_\_\_\_\_ (5) The following individuals shall complete a minimum of 10 hours of child care training each year, based on the center's license date:

\_\_\_\_\_ (a) the director;

\_\_\_\_\_ (b) all caregivers;

\_\_\_\_\_ (c) all substitutes who work an average of 10 hours a week or more, as averaged over any three month period; and

\_\_\_\_\_ (d) all volunteers that the provider includes in the provider to child ratio.

\_\_\_\_\_ (6) Documentation of annual training shall be kept in each caregiver's file, and shall include the name of the training organization, the date, the training topic, and the total hours or minutes of training.

\_\_\_\_\_ (7) Caregivers who begin employment partway through the license year shall complete a proportionate number of training hours based on the number of months worked prior to the center's relicensure date.

\_\_\_\_\_ (8) Annual training hours shall include the following topics:

\_\_\_\_\_ (a) the current child care licensing rules found in Sections R430-60-11 through 24;

\_\_\_\_\_ (b) a review of the center's policies and procedures and emergency and disaster plans, including any updates;

\_\_\_\_\_ (c) signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;

\_\_\_\_\_ (d) principles of child growth and development, including development of the brain; and

\_\_\_\_\_ (e) positive guidance.

\_\_\_\_\_ (9) If the center provides infant or toddler care, annual training topics for the center director and all infant and toddler caregivers shall also include:

\_\_\_\_\_ (a) preventing shaken baby syndrome and coping with crying babies; and

\_\_\_\_\_ (b) preventing sudden infant death syndrome.

\_\_\_\_\_ (10) A minimum of 5 hours of the required annual in-service training shall be face-to-face instruction.

#### **R430-60-8. Administration.**

\_\_\_\_\_ (1) The licensee is responsible for all aspects of the operation and management of the center.

\_\_\_\_\_ (2) The licensee shall comply with all federal, state, and local laws and rules pertaining to the operation of a child care center.

\_\_\_\_\_ (3) The provider shall not engage in or allow conduct that is adverse to the public health, morals, welfare, and safety of the children in care.

\_\_\_\_\_ (4) The provider shall take all reasonable measures to protect the safety of children in care. The licensee shall not engage in activity or allow conduct that unreasonably endangers children in care.

\_\_\_\_\_ (5) Either the center director or a designee with authority to act on behalf of the center director shall be present at the facility whenever the center is open for care.

\_\_\_\_\_ (6) Director designees shall be at least 21 years of age, and shall have completed their orientation training.

\_\_\_\_\_ (7) There shall be a working telephone at the facility, and the center director shall inform the Department of any changes to the center's telephone number within 48 hours of the change.

\_\_\_\_\_ (8) The provider shall call the Department within 24 hours to report any fatality, hospitalization, emergency medical response, or injury that requires attention from a health care provider, unless an emergency medical transport was part of a child's medical treatment plan identified by the parent. The provider shall also mail or fax a written report to the Department within five days of the incident.

\_\_\_\_\_ (9) The center director shall train and supervise all staff to:

\_\_\_\_\_ (a) ensure their compliance with this rule;

\_\_\_\_\_ (b) ensure that children are not subjected to emotional, physical, or sexual abuse while in care.

\_\_\_\_\_ (10) The provider shall establish and follow written policies and procedures for the health and safety of the children in care. The written policies and procedures shall address at least the following areas:

\_\_\_\_\_ (a) direct supervision and protection of children at all times, including when they are sleeping, using the bathroom, in a mixed group activity, on the playground, and during off-site activities;

\_\_\_\_\_ (b) maintaining required caregiver to child ratios when the center has more than the expected number of children, or fewer than the scheduled number of caregivers;

\_\_\_\_\_ (c) procedures to account for each child's attendance and whereabouts;



- ~~\_\_\_\_\_ (d) procedures to ensure that the center releases children to authorized individuals only;~~
- ~~\_\_\_\_\_ (e) confidentiality and release of information;~~
- ~~\_\_\_\_\_ (f) the use of movies and video or computer games, including what industry ratings the center allows;~~
- ~~\_\_\_\_\_ (g) recognizing early signs of illness and determining when there is a need for exclusion from the center;~~
- ~~\_\_\_\_\_ (h) discipline of children, including behavioral expectations of children and discipline methods used; and~~
- ~~\_\_\_\_\_ (i) how long a child will cry before the parent is contacted.~~
- ~~\_\_\_\_\_ (11) The provider shall ensure that the written policies and procedures are available for review by staff and the Department during business hours.~~

**R430-60-9. Records.**

- ~~\_\_\_\_\_ (1) The provider shall maintain the following general records on-site for review by the Department:~~
  - ~~\_\_\_\_\_ (a) documentation of the previous 12 months of fire and disaster drills as specified in R430-60-10(9) and (11);~~
  - ~~\_\_\_\_\_ (b) current animal vaccination records as required in R430-60-22(2);~~
  - ~~\_\_\_\_\_ (c) a six week record of child attendance, including sign-in and sign-out records;~~
  - ~~\_\_\_\_\_ (d) a current local health department inspection;~~
  - ~~\_\_\_\_\_ (e) a current local fire department inspection;~~
  - ~~\_\_\_\_\_ (f) if the licensee has been licensed for one year or longer, the most recent "Request for Annual Renewal of CBS/LIS Criminal History Information for Child Care" listing the licensee and all current providers, caregivers, volunteers, directors, owners, and members of the governing body; and~~
  - ~~\_\_\_\_\_ (g) if the licensee has been licensed for one year or longer, the most recent criminal background "Disclosure and Consent Statement" listing the licensee and all current providers, caregivers, volunteers, directors, owners, and members of the governing body.~~
- ~~\_\_\_\_\_ (2) The provider shall maintain the following records for each currently enrolled child on-site for review by the Department:~~
  - ~~\_\_\_\_\_ (a) an admission form containing the following information for each child:~~
    - ~~\_\_\_\_\_ (i) name;~~
    - ~~\_\_\_\_\_ (ii) date of birth;~~
    - ~~\_\_\_\_\_ (iii) the parent's name, address, and phone number, including a daytime phone number;~~
    - ~~\_\_\_\_\_ (iv) the names of people authorized by the parent to pick up the child;~~
    - ~~\_\_\_\_\_ (v) the name, address and phone number of a person to be contacted in the event of an emergency if the provider is unable to contact the parent; and~~
    - ~~\_\_\_\_\_ (vi) medical conditions, including a certification that all immunizations are current.~~
  - ~~\_\_\_\_\_ (b) a transportation permission form, if the center provides transportation services;~~
  - ~~\_\_\_\_\_ (c) a six week record of medication permission forms, and a six week record of medications actually administered; and~~
  - ~~\_\_\_\_\_ (d) a six week record of incident, accident, and injury reports.~~
- ~~\_\_\_\_\_ (3) The provider shall ensure that information in children's files is not released without written parental permission.~~
- ~~\_\_\_\_\_ (4) The provider shall maintain the following records for each staff member on-site for review by the Department:~~

- ~~\_\_\_\_\_ (a) date of initial employment;~~
- ~~\_\_\_\_\_ (b) approved initial CBS/LIS Consent and Release of Liability for Child Care" form;~~
- ~~\_\_\_\_\_ (c) a six week record of days worked, and the times worked each day;~~
- ~~\_\_\_\_\_ (d) orientation training documentation for caregivers, and for volunteers who work at the center at least once each month;~~
- ~~\_\_\_\_\_ (e) annual training documentation for all providers and substitutes who work an average of 10 hours or more a week, as averaged over any three month period; and~~
- ~~\_\_\_\_\_ (f) current first aid and CPR certification, if applicable as required in R430-60-10(2), R430-60-20(2)(d), and R430-60-21(2).~~

**R430-60-10. Emergency Preparedness.**

- ~~\_\_\_\_\_ (1) The provider shall post the center's street address and emergency numbers, including ambulance, fire, police, and poison control, near each telephone in the center.~~
- ~~\_\_\_\_\_ (2) At least one person at the facility at all times when children are in care shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification. Equivalent CPR certification must include hands-on testing.~~
  - ~~\_\_\_\_\_ (3) The licensee shall maintain first aid supplies in the center, including at least antiseptic, band-aids, and tweezers.~~
  - ~~\_\_\_\_\_ (4) The provider shall have a written emergency and disaster plan which shall include at least the following:~~
    - ~~\_\_\_\_\_ (a) procedures for responding to medical emergencies and serious injuries that require treatment by a health care provider;~~
    - ~~\_\_\_\_\_ (b) procedures for responding to fire, earthquake, flood, power failure, and water failure;~~
    - ~~\_\_\_\_\_ (c) the location of and procedure for emergency shut off of gas, electricity, and water;~~
    - ~~\_\_\_\_\_ (d) an emergency relocation site where children may be housed if the center is uninhabitable;~~
    - ~~\_\_\_\_\_ (e) a means of posting the relocation site address in a conspicuous location that can be seen even if the center is closed;~~
    - ~~\_\_\_\_\_ (f) the transportation route and means of getting staff and children to the emergency relocation site;~~
    - ~~\_\_\_\_\_ (g) a means of accounting for each child's presence in route to and at the relocation site;~~
    - ~~\_\_\_\_\_ (h) a means of accessing children's emergency contact information and emergency releases;~~
    - ~~\_\_\_\_\_ (i) provisions for emergency supplies, including at least food, water, a first aid kit, diapers if the center cares for diapered children, and a cell phone;~~
    - ~~\_\_\_\_\_ (j) procedures for ensuring adequate supervision of children during emergency situations, including while at the center's emergency relocation site; and~~
    - ~~\_\_\_\_\_ (k) staff assignments for specific tasks during an emergency.~~
- ~~\_\_\_\_\_ (5) The provider shall ensure that the emergency and disaster plan is followed in the event of an emergency.~~
- ~~\_\_\_\_\_ (6) The provider shall review the emergency and disaster plan annually, and update it as needed. The provider shall note the date of reviews and updates to the plan on the plan.~~
- ~~\_\_\_\_\_ (7) The emergency and disaster plan shall be available for immediate review by staff and the Department during business hours.~~
- ~~\_\_\_\_\_ (8) The provider shall conduct fire evacuation drills monthly. Drills shall include complete exit of all children and staff from the building.~~

- ~~(9) The provider shall document all fire drills, including:~~
  - ~~(a) the date and time of the drill;~~
  - ~~(b) the number of children participating;~~
  - ~~(c) the name of the person supervising the drill;~~
  - ~~(d) the total time to complete the evacuation; and~~
  - ~~(e) any problems encountered.~~
- ~~(10) The provider shall conduct drills for disasters other than fires at least once every six months.~~
- ~~(11) The provider shall document all disaster drills, including:~~
  - ~~(a) the type of disaster, such as earthquake, flood, prolonged power outage, tornado;~~
  - ~~(b) the date and time of the drill;~~
  - ~~(c) the number of children participating;~~
  - ~~(d) the name of the person supervising the drill; and~~
  - ~~(e) any problems encountered.~~
- ~~(12) The center shall vary the days and times on which fire and other disaster drills are held.~~

**R430-60-11. Supervision and Ratios.**

- ~~(1) The provider shall ensure that caregivers provide and maintain direct supervision of all children at all times.~~
- ~~(2) Caregivers shall actively supervise children on the playground to minimize the risk of injury to a child.~~
- ~~(3) The licensee must maintain minimum care giver to child ratios as provided in Table 2.~~

TABLE 2

Garegiver to Child Ratios

Caregivers	Children	Limits for Mixed-Ages
1	12	No children under age 2
1	8	2 children under age 2
1	6	3 children under age 2

- ~~(4) Regardless of the number of other children and the minimum ratios in Table 2, if only two care givers are present, the facility may not care for more than four children under the age of two.~~
- ~~(5) For no more than 20 minutes, the minimum ratios in Table 2 may not exceed one care giver to 16 children if none of the children are younger than 24 months old, to allow for an additional care giver to arrive at the program.~~
- ~~(6) An hourly program that exceeds the ratio in Table 2, must be able to document having care givers, who, as a condition of their employment, are on call to come to the program as needed and arrive at the program within 20 minutes after receiving notification to report.~~
- ~~(7) Whenever the total number of children present to be cared for at a hourly program is more than 20, children younger than 24 months must be cared for in an area that is physically separated from older children. All children 24 months old and older may be cared for in the same group in the same area.~~
- ~~(8) The children of the licensee or any employee, age four or older, are not counted in the caregiver to child ratios when the parent of the child is working at the center.~~

**R430-60-12. Injury Prevention.**

- ~~(1) The provider shall ensure that the building, grounds, toys, and equipment are maintained and used in a safe manner to prevent injury to children.~~

- ~~(2) Areas accessible to children shall be free of unstable heavy equipment, furniture, or other items that children could pull down on themselves.~~
- ~~(3) The following items shall be inaccessible to children:~~
  - ~~(a) firearms, ammunition, and other weapons on the premises. Firearms shall be stored separately from ammunition, in a cabinet or area that is locked with a key or combination lock, unless the use is in accordance with the Utah Concealed Weapons Act, or as otherwise allowed by law;~~
  - ~~(b) tobacco, alcohol, illegal substances, and sexually explicit material;~~
  - ~~(c) when in use, portable space heaters, fireplaces, and wood burning stoves;~~
  - ~~(d) toxic or hazardous chemicals such as cleaners, insecticides, lawn products, and flammable materials;~~
  - ~~(e) poisonous plants;~~
  - ~~(f) matches or cigarette lighters;~~
  - ~~(g) open flames;~~
  - ~~(h) sharp objects, edges, corners, or points which could cut or puncture skin;~~
    - ~~(i) for children age 4 and under, ropes, cords, and chains long enough to encircle a child's neck, such as those found on window blinds or drapery cords;~~
    - ~~(j) for children age 4 and under, plastic bags large enough for a child's head to fit inside, latex gloves, and balloons; and~~
    - ~~(k) for children age 2 and under, toys or other items with a diameter of less than 1-1/4 inch and a length of less than 2-1/4 inches, or objects with removable parts that have a diameter of less than 1-1/4 inch and a length of less than 2-1/4 inches.~~
- ~~(4) The provider shall store all toxic or hazardous chemicals in a container labeled with its contents.~~
- ~~(5) Electrical outlets and surge protectors accessible to children age four and younger shall have protective caps or safety devices when not in use.~~
- ~~(6) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.~~
- ~~(7) High chairs shall have T-shaped safety straps or devices that are used whenever a child is in the chair.~~
- ~~(8) Indoor stationary gross motor play equipment, such as slides and climbers, accessible to children under age 3 shall not have a designated play surface that exceeds 3 feet in height.~~
  - ~~(a) If such equipment has an elevated designated play surface less than 18 inches in height, it shall not be placed on a hard surface, such as wood, tile, linoleum, or concrete, and shall have a three foot use zone.~~
  - ~~(b) If such equipment has an elevated designated play surface that is 18 inches to 3 feet in height, it shall be surrounded by mats at least 2 inches thick, or cushioning that meets ASTM Standard F1292, in a three foot use zone.~~
- ~~(9) Indoor stationary gross motor play equipment, such as slides and climbers, accessible to children age 3 and older shall not have a designated play surface that exceeds 5-1/2 feet in height.~~
  - ~~(a) If such equipment has an elevated designated play surface less than 3 feet in height, it shall be surrounded by protective cushioning material, such as mats at least 1 inch thick, in a six foot use zone.~~
  - ~~(b) If such equipment has an elevated designated play surface that is 3 feet to 5-1/2 feet in height, it shall be surrounded by cushioning that meets ASTM Standard F1292, in a six foot use zone.~~

\_\_\_\_\_ (10) There shall be no trampolines on the premises that are accessible to any child in care.

\_\_\_\_\_ (11) If there is a swimming pool on the premises that is not emptied after each use:

\_\_\_\_\_ (a) the provider shall ensure that the pool is enclosed within a fence or other solid barrier at least six feet high that is kept locked whenever the pool is not in use;

\_\_\_\_\_ (b) the provider shall maintain the pool in a safe manner;

\_\_\_\_\_ (c) the provider shall meet all applicable state and local laws and ordinances related to the operation of a swimming pool; and

\_\_\_\_\_ (d) If the pool is over four feet deep, there shall be a Red Cross certified life guard on duty, or a lifeguard certified by another agency that the licensee can demonstrate to the Department to be equivalent to Red Cross certification, any time children have access to the pool.

\_\_\_\_\_ (12) If wading pools are used:

\_\_\_\_\_ (a) a caregiver must be at the pool supervising children whenever there is water in the pool;

\_\_\_\_\_ (b) diapered children must wear swim diapers and rubber pants while in the pool; and

\_\_\_\_\_ (c) the pool shall be emptied and sanitized after each use by a separate group of children.

#### **R430-60-13. Parent Notification and Child Security:**

\_\_\_\_\_ (1) The provider shall post a copy of the Department's child care guide in the center for parents' review during business hours.

\_\_\_\_\_ (2) Parents shall have access to the center and their child's classroom at all times their child is in care.

\_\_\_\_\_ (3) The provider shall ensure the following procedures are followed when children arrive at the center or leave the center:

\_\_\_\_\_ (a) Each child must be signed in and out of the center by the person dropping the child off and picking the child up, including the date and time the child arrives or leaves.

\_\_\_\_\_ (b) Persons signing children into the center shall use identifiers, such as a signature, initials, or electronic code.

\_\_\_\_\_ (c) Persons signing children out of the center shall use identifiers, such as a signature, initials, or electronic code, and shall have photo identification if they are unknown to the provider.

\_\_\_\_\_ (d) Only parents or persons with written authorization from the parent may take any child from the center. In an emergency, the provider may accept verbal authorization if the provider can confirm the identity of the person giving the verbal authorization and the identity of the person picking up the child.

\_\_\_\_\_ (e) School age children may sign themselves in and out of the program with written permission from their parent.

\_\_\_\_\_ (4) The provider shall give parents a written report of every incident, accident, or injury involving their child on the day of occurrence. The caregivers involved, the center director, and the person picking the child up shall sign the report on the day of occurrence. If a school age child signs him or herself out of the program, a copy of the report shall be mailed to the parent, or given to the parent the next day the child attends the program.

\_\_\_\_\_ (5) If a child is injured and the injury appears serious but not life threatening, the provider shall contact the parent immediately, in addition to giving the parent a written report of the injury.

\_\_\_\_\_ (6) In the case of a life threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb, the provider shall contact emergency personnel immediately, before contacting the parent. If the parent cannot be reached after emergency

personnel have been contacted, the provider shall attempt to contact the child's emergency contact person.

#### **R430-60-14. Child Health:**

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

\_\_\_\_\_ (2) All staff shall follow the reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation found in Utah Code, Section 62A-4a-403 and 62A-4a-411.

\_\_\_\_\_ (3) The use of tobacco, alcohol, illegal substances, or sexually explicit material on the premises or in center vehicles is prohibited any time that children are in care.

#### **R430-60-15. Child Nutrition:**

\_\_\_\_\_ (1) If food service is provided:

\_\_\_\_\_ (a) The provider shall ensure that the center's meal service complies with local health department food service regulations.

\_\_\_\_\_ (b) The provider shall offer meals or snacks at least once every three hours that a child is in care.

\_\_\_\_\_ (c) The provider shall serve children's food on dishes, napkins, or sanitary high chair trays, except for individual serving size items, such as crackers, if they are placed directly in the children's hands. The provider shall not place food on a bare table.

\_\_\_\_\_ (2) If the parent of a child in care has informed the provider that his or her child has a food allergy or sensitivity, the provider shall ensure that the child is not given that food or drink.

\_\_\_\_\_ (3) The provider shall ensure that food and drink brought in by parents for an individual child's use is labeled with the child's name, and refrigerated if needed. The provider shall ensure that a child in care does not consume a food or beverages that was brought in for another child.

#### **R430-60-16. Infection Control:**

\_\_\_\_\_ (1) Staff shall wash their hands thoroughly with liquid soap and warm running water at the following times:

\_\_\_\_\_ (a) before handling or preparing food or bottles;

\_\_\_\_\_ (b) before and after eating meals and snacks or feeding children;

\_\_\_\_\_ (c) before and after diapering a child;

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

\_\_\_\_\_ (e) before administering medication;

\_\_\_\_\_ (f) after coming into contact with body fluids;

\_\_\_\_\_ (g) after playing with or handling animals;

\_\_\_\_\_ (h) when coming in from outdoors; and

\_\_\_\_\_ (i) after cleaning or taking out garbage.

\_\_\_\_\_ (2) The provider shall ensure that children wash their hands thoroughly with liquid soap and warm running water at the following times:

\_\_\_\_\_ (a) before and after eating meals and snacks;

\_\_\_\_\_ (b) after using the toilet;

\_\_\_\_\_ (c) after coming into contact with body fluids;

\_\_\_\_\_ (d) after playing with animals; and

\_\_\_\_\_ (e) when coming in from outdoors.

\_\_\_\_\_ (3) Only single use towels from a covered dispenser or an electric hand drying device may be used to dry hands.

\_\_\_\_\_ (4) The provider shall ensure that toilet paper is accessible to children, and that it is kept on a dispenser.

\_\_\_\_\_ (5) The provider shall clean and sanitize all washable toys and materials weekly, or more often if necessary.

~~\_\_\_\_\_ (6) Stuffed animals, cloth dolls, and dress-up clothes must be machine washable. Pillows must be machine washable, or have removable covers that are machine washable. The provider shall wash stuffed animals, cloth dolls, dress-up clothes, and pillows or covers weekly.~~

~~\_\_\_\_\_ (7) If water play tables or tubs are used, they shall be washed and sanitized daily, and children shall wash their hands prior to engaging in the activity.~~

~~\_\_\_\_\_ (8) Persons with contagious TB shall not work or volunteer in the center.~~

~~\_\_\_\_\_ (9) Children's clothing which is wet or soiled from body fluids:~~

~~\_\_\_\_\_ (a) shall not be rinsed or washed at the center; and~~

~~\_\_\_\_\_ (b) shall be placed in a leakproof container, labeled with the child's name, and returned to the parent.~~

~~\_\_\_\_\_ (10) If the center uses a potty chair, the provider shall clean and sanitize the chair after each use.~~

~~\_\_\_\_\_ (11) The center shall have a portable body fluid clean up kit.~~

~~\_\_\_\_\_ (a) All staff shall know the location of the kit and how to use it.~~

~~\_\_\_\_\_ (b) The provider shall use the kit to clean up spills of body fluids.~~

~~\_\_\_\_\_ (c) The provider shall restock the kit as needed.~~

~~\_\_\_\_\_ (12) The provider shall notify the local health department, on the day of discovery, of any reportable infectious diseases among children or caregivers, or any sudden or extraordinary occurrence of a serious or unusual illness, as required by the local health department.~~

~~\_\_\_\_\_ (13) The provider shall post a parent notice at the center when any staff or child has an infectious disease or parasite.~~

~~\_\_\_\_\_ (a) The provider shall post the notice in a conspicuous location where it can be seen by all parents.~~

~~\_\_\_\_\_ (b) The provider shall post and date the notice the same day the disease or parasite is discovered, and the notice shall remain posted for at least 5 days.~~

#### **R430-60-17. Medications.**

~~\_\_\_\_\_ (1) If medications are given, they shall be administered to children only by a provider trained in the administration of medications as specified in subsections (7) and (8) below.~~

~~\_\_\_\_\_ (2) All over-the-counter and prescription medications shall:~~

~~\_\_\_\_\_ (a) be labeled with the child's full name;~~

~~\_\_\_\_\_ (b) be kept in the original or pharmacy container;~~

~~\_\_\_\_\_ (c) have the original label; and,~~

~~\_\_\_\_\_ (d) have child safety caps.~~

~~\_\_\_\_\_ (3) All non-refrigerated medications shall be inaccessible to children and stored in a container or area that is locked, such as a locked room, cupboard, drawer, or a lockbox. The provider shall store all refrigerated medications in a leakproof container.~~

~~\_\_\_\_\_ (4) The provider shall have a written medication permission form completed and signed by the parent prior to administering any over-the-counter or prescription medication to a child. The permission form must include:~~

~~\_\_\_\_\_ (a) the child's name;~~

~~\_\_\_\_\_ (b) the name of the medication;~~

~~\_\_\_\_\_ (c) written instructions for administration; including:~~

~~\_\_\_\_\_ (i) the dosage;~~

~~\_\_\_\_\_ (ii) the method of administration;~~

~~\_\_\_\_\_ (iii) the times and dates to be administered; and~~

~~\_\_\_\_\_ (iv) the disease or condition being treated; and~~

~~\_\_\_\_\_ (d) the parent signature and the date signed.~~

~~\_\_\_\_\_ (5) If the provider keeps over-the-counter medication at the center that is not brought in by a parent for their child's use, the medication shall not be administered to any child without prior parental consent for each instance it is given. The consent must be either:~~

~~\_\_\_\_\_ (a) prior written consent; or~~

~~\_\_\_\_\_ (b) oral consent for which a provider documents in writing the date and time of the consent, and which the parent or person picking up the child signs upon picking up the child.~~

~~\_\_\_\_\_ (6) If the provider chooses not to administer medication as instructed by the parent, the provider shall notify the parent of their refusal to administer the medication prior to the time the medication needs to be given.~~

~~\_\_\_\_\_ (7) When administering medication, the provider administering the medication shall:~~

~~\_\_\_\_\_ (a) wash their hands;~~

~~\_\_\_\_\_ (b) check the medication label to confirm the child's name;~~

~~\_\_\_\_\_ (c) compare the instructions on the parent release form with the directions on the prescription label or product package to ensure that a child is not given a dosage larger than that recommended by the health care provider or the manufacturer;~~

~~\_\_\_\_\_ (d) administer the medication; and~~

~~\_\_\_\_\_ (e) immediately record the following information:~~

~~\_\_\_\_\_ (i) the date, time, and dosage of the medication given;~~

~~\_\_\_\_\_ (ii) the signature or initials of the provider who administered the medication; and,~~

~~\_\_\_\_\_ (iii) any errors in administration or adverse reactions.~~

~~\_\_\_\_\_ (8) The provider shall report any adverse reaction to a medication or error in administration to the parent immediately upon recognizing the error or reaction, or after notifying emergency personnel if the reaction is life threatening.~~

#### **R430-60-18. Napping.**

~~\_\_\_\_\_ If the center uses sleeping equipment for rest time, the following rules apply:~~

~~\_\_\_\_\_ (1) The provider shall maintain sleeping equipment in good repair:~~

~~\_\_\_\_\_ (2) A separate crib, cot, mat, or other sleeping equipment shall be used for each child during nap times.~~

~~\_\_\_\_\_ (3) If sleeping equipment is clearly assigned to and used by an individual child, the provider must clean and sanitize it as needed; but at least weekly.~~

~~\_\_\_\_\_ (4) If sleeping equipment is not clearly assigned to and used by an individual child, the provider must clean and sanitize it prior to each use.~~

~~\_\_\_\_\_ (5) The provider must either store sleeping equipment so that the surfaces children sleep on do not touch each other, or else clean and sanitize sleeping equipment prior to each use.~~

~~\_\_\_\_\_ (6) The provider shall space cribs, cots, and mats a minimum of 2 feet apart when in use, to allow for adequate ventilation, easy access, and ease of exiting.~~

~~\_\_\_\_\_ (7) Cots and mats may not block exits.~~

#### **R430-60-19. Child Discipline.**

~~\_\_\_\_\_ (1) The provider shall inform caregivers and children of the center's behavioral expectations for children.~~

~~(2) The provider may discipline children using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.~~

~~(3) Caregivers may use gentle, passive restraint with children only when it is needed to stop children from injuring themselves or others or from destroying property.~~

~~(4) Discipline measures shall not include any of the following:~~

~~(a) any form of corporal punishment such as hitting, spanking, shaking, biting, pinching, or any other measure that produces physical pain or discomfort;~~

~~(b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds that specified in Subsection (3) above;~~

~~(c) shouting at children;~~

~~(d) any form of emotional abuse;~~

~~(e) forcing or withholding of food, rest, or toileting; and,~~

~~(f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.~~

#### **R430-60-20. Activities.**

~~(1) The provider shall offer a variety of activities and materials that are appropriate to the age and development of the children accepted for care.~~

~~(2) If off-site activities are offered:~~

~~(a) the provider shall obtain written parental consent for each activity in advance;~~

~~(b) caregivers shall take written emergency information and releases with them for each child in the group, which shall include:~~

~~(i) the child's name;~~

~~(ii) the parent's name and phone number;~~

~~(iii) the name and phone number of a person to notify in the event of an emergency if the parent cannot be contacted;~~

~~(iv) the names of people authorized by the parents to pick up the child; and~~

~~(e) the provider shall maintain required caregiver to child ratios and direct supervision during the activity;~~

~~(d) at least one caregiver present shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification;~~

~~(3) If swimming activities are offered, caregivers shall remain with the children during the activity, and lifeguards and pool personnel shall not count toward the caregiver to child ratio.~~

#### **R430-60-21. Transportation.**

~~(1) Any vehicle used for transporting children shall:~~

~~(a) be enclosed;~~

~~(b) be equipped with individual, size appropriate safety restraints, properly installed and in working order, for each child being transported;~~

~~(c) have a current vehicle registration and safety inspection;~~

~~(d) be maintained in a safe and clean condition;~~

~~(e) maintain temperatures between 60-90 degrees Fahrenheit when in use;~~

~~(f) contain a first aid kit; and~~

~~(g) contain a body fluid clean up kit.~~

~~(2) At least one adult in each vehicle transporting children shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification.~~

~~(3) The adult transporting children shall:~~

~~(a) have and carry with them a current valid Utah driver's license, for the type of vehicle being driven, whenever they are transporting children;~~

~~(b) have with them written emergency contact information for all of the children being transported;~~

~~(c) ensure that each child being transported is wearing an appropriate individual safety restraint;~~

~~(d) ensure that no child is left unattended by an adult in the vehicle;~~

~~(e) ensure that all children remain seated while the vehicle is in motion;~~

~~(f) ensure that keys are never left in the ignition when the driver is not in the driver's seat; and,~~

~~(g) ensure that the vehicle is locked during transport.~~

#### **R430-60-22. Animals.**

~~(1) All animals at the facility shall be clean and free of obvious disease or health problems that could adversely affect children.~~

~~(2) All animals at the facility shall have current immunizations for all vaccine preventable diseases that are transmissible to humans. The center shall have documentation of the vaccinations.~~

~~(3) There shall be no animal on the premises that has a history of dangerous, attacking, or aggressive behavior, or a history of biting even one person.~~

~~(4) Children younger than school age shall not assist with the cleaning of animals or animal cages, pens, or equipment.~~

~~(5) If a school age child assists in the cleaning of animals or animal cages, the child shall wash his or her hands immediately after handling the animal or animal equipment.~~

~~(6) There shall be no animals or animal equipment in food preparation or eating areas.~~

~~(7) Children shall not handle reptiles or amphibians.~~

#### **R430-60-23. Diapering.**

~~If the center diapers children, the following applies:~~

~~(1) Caregivers shall change children's diapers at a diaper changing station. Diapers shall not be changed on surfaces used for any other purpose.~~

~~(2) Each diapering station shall be equipped with railings to prevent a child from falling when being diapered.~~

~~(3) Caregivers shall not leave children unattended on the diapering surface.~~

~~(4) The diapering surface shall be smooth, waterproof, and in good repair.~~

~~(5) The provider shall post diapering procedures at each diapering station and ensure that they are followed.~~

~~(6) There shall be a handwashing sink used exclusively for diapering and handwashing after diapering.~~

~~(7) Caregivers shall clean and sanitize the diapering surface after each diaper change.~~

~~(8) Caregivers shall wash their hands before and after each diaper change.~~

~~(9) Caregivers shall place soiled disposable diapers in a container that has a plastic lining and a tightly fitting lid.~~

~~(10) The provider shall daily clean and sanitize containers where soiled diapers are placed.~~

- ~~(11) If cloth diapers are used:~~
- ~~(a) they shall not be rinsed at the center; and~~
- ~~(b) after a diaper change, the caregiver shall place the cloth diaper directly into a leakproof container that is inaccessible to children and labeled with the child's name, or a leakproof diaper service container.~~
- ~~(12) Caregivers shall change children's diapers promptly when they are wet or soiled, and shall check diapers at least once every two hours.~~

**~~R430-60-24. Infant and Toddler Care.~~**

~~If the center cares for infants or toddlers, the following applies:~~

- ~~(1) If an infant is not able to sit upright and hold their own bottle, a caregiver shall hold the infant during bottle feeding. Bottles shall not be propped.~~
- ~~(2) The provider shall clean and sanitize high chair trays prior to each use.~~
- ~~(3) The provider shall cut solid foods for infants into pieces no larger than 1/4 inch in diameter. The provider shall cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.~~
- ~~(4) Baby food, formula, and breast milk for infants that is brought from home for an individual child's use must be:~~
- ~~(a) labeled with the child's name;~~
- ~~(b) labeled with the date and time of preparation or opening of the container, such as a jar of baby food;~~
- ~~(c) kept refrigerated if needed; and~~
- ~~(d) discarded within 24 hours of preparation or opening, except that powdered formula or dry foods which are opened, but are not mixed, are not considered prepared.~~
- ~~(5) Formula and milk, including breast milk, shall be discarded after feeding, or within two hours of initiating a feeding.~~
- ~~(6) To prevent burns, heated bottles shall be shaken and tested for temperature before being fed to children.~~
- ~~(7) Pacifiers, bottles, and non-disposable drinking cups shall be labeled with each child's name, and shall not be shared.~~
- ~~(8) Only one infant or toddler shall occupy any one piece of equipment at any time, unless the equipment has individual seats for more than one child.~~
- ~~(9) Infants shall sleep in equipment designed for sleep such as a crib, bassinet, porta-crib or play pen. Infants shall not be placed to sleep on mats or cots, or in bouncers, swings, car seats, or other similar pieces of equipment.~~
- ~~(10) Cribs used by a child in care must:~~
- ~~(a) have tight fitting mattresses;~~
- ~~(b) have slats spaced no more than 2-3/8 inches apart;~~
- ~~(c) have at least 20 inches from the top of the mattress to the top of the crib rail; and~~
- ~~(d) not have strings, cords, ropes, or other entanglement hazards strung across the crib rails.~~
- ~~(11) Infants shall not be placed on their stomachs for sleeping, unless there is documentation from a health care provider for treatment of a medical condition.~~
- ~~(12) Walkers with wheels are prohibited.~~
- ~~(13) Infants and toddlers shall not have access to objects made of styrofoam.~~
- ~~(14) Caregivers shall respond as promptly as possible to infants and toddlers who are in emotional distress due to conditions such as hunger, fatigue, wet or soiled diapers, fear, teething, or illness.~~

- ~~(15) Awake infants and toddlers shall receive positive physical stimulation and positive verbal interaction with a caregiver at least once every 20 minutes.~~
- ~~(16) Awake infants and toddlers shall not be confined for more than 30 minutes in one piece of equipment, such as swings, high chairs, cribs, play pens, or other similar pieces of equipment.~~
- ~~(17) Mobile infants and toddlers shall have freedom of movement in a safe area.~~
- ~~(18) All toys used by infants and toddlers shall be cleaned and sanitized:~~
- ~~(a) weekly;~~
- ~~(b) after being put in a child's mouth before another child plays with it; and~~
- ~~(c) after being contaminated by body fluids.~~

~~**KEY:** child care facilities, hourly child care centers~~

~~**Date of Enactment or Last Substantive Amendment:** September 1, 2013~~

~~**Notice of Continuation:** May 29, 2013~~

~~**Authorizing, and Implemented or Interpreted Law:** 26-39]~~

Health, Family Health and  
Preparedness, Child Care Licensing  
**R430-70**  
Out of School Time Child Care  
Programs

**NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE NO.: 39126

FILED: 02/06/2015

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule is being repealed because of the creation of the new Child Care Center Licensing Committee.

**SUMMARY OF THE RULE OR CHANGE:** This rule is being repealed because of the creation of the new Child Care Center Licensing Committee. This rule is repealed in its entirety. (DAR NOTE: The proposed new rule R381-70 is under DAR No. 39129 in this issue, March 1, 2015, of the Bulletin.)

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 63G, Chapter 3

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** Repealing this rule will not change any of the requirements for child care programs. Therefore, the Department does not anticipate any new costs or savings to child care programs operated by state agencies.

♦ **LOCAL GOVERNMENTS:** Repealing this rule will not change any of the requirements for child care programs.

Therefore, the Department does not anticipate any new costs or savings to child care programs operated by state agencies.  
 ♦ **SMALL BUSINESSES:** Although almost all child care facilities are small businesses, repealing this rule will not change any of the requirements for child care programs. Therefore, the Department does not anticipate any new costs or savings to child care programs.  
 ♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because repealing this rule will not change any of the requirements for child care programs, the Department does not anticipate any new costs or savings to entities or persons that are not small businesses.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** Because repealing this rule will not change any of the requirements for child care programs, the Department does not anticipate any compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This repeal will have no impact on business because the same rules are being renumbered and established under Title R381.

**THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:**  
 HEALTH  
 FAMILY HEALTH AND PREPAREDNESS,  
 CHILD CARE LICENSING  
 CANNON HEALTH BLDG  
 288 N 1460 W  
 SALT LAKE CITY, UT 84116-3231  
 or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
 ♦ Simon Bolivar by phone at 801-803-4618, by FAX at 801-237-0786, or by Internet E-mail at sbolivar@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2015**

**THIS RULE MAY BECOME EFFECTIVE ON: 04/13/2015**

**AUTHORIZED BY: David Patton, PhD, Executive Director**

**R430. Health, Family Health and Preparedness, Child Care Licensing.**

**[R430-70. Out of School Time Child Care Programs.**

**R430-70-1. Purpose:**

~~This rule is promulgated pursuant to Title 26, Chapter 39. It establishes standards for the operation and maintenance of out of school time programs and requirements to protect the health and safety of children in these programs.~~

**R430-70-2. Definitions:**

- ~~(1) "Accredited College" means a college accredited by an agency recognized by the United States Department of Education as a valid accrediting agency.~~
- ~~(2) "ASTM" means American Society for Testing and Materials.~~
- ~~(3) "Body Fluids" means blood, urine, feces, vomit, mucous, and saliva.~~
- ~~(4) "Caregiver" means an employee or volunteer who provides direct care to children.~~
- ~~(5) "CPSC" means the Consumer Product Safety Commission.~~
- ~~(6) "Department" means the Utah Department of Health.~~
- ~~(7) "Designated Play Surface" means a flat surface on a piece of stationary play equipment that a child could stand, walk, sit, or climb on, and that is at least 2" by 2" in size.~~
- ~~(8) "Direct Supervision" means the caregiver must be able to hear all of the children and must be near enough to intervene when necessary.~~
- ~~(9) "Emotional Abuse" means behavior that could impair a child's emotional development, such as threatening, intimidating, humiliating, or demeaning a child, constant criticism, rejection, profane language, and inappropriate physical restraint.~~
- ~~(10) "Group" means the children assigned to one or two caregivers, occupying an individual classroom or an area defined by furniture or another partition within a room.~~
- ~~(11) "Health Care Provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.~~
- ~~(12) "Inaccessible to Children" means either locked, such as in a locked room, cupboard or drawer, or with a child safety lock, or in a location that a child can not get to.~~
- ~~(13) "Infectious Disease" means an illness that is capable of being spread from one person to another.~~
- ~~(14) "Licensee" means the legally responsible person or persons holding a valid Department of Health child care license.~~
- ~~(15) "Over the Counter Medication" means medication that can be purchased without a written prescription from a health care provider. This includes herbal remedies.~~
- ~~(16) "Parent" means the parent or legal guardian of a child in care.~~
- ~~(17) "Person" means an individual or a business entity.~~
- ~~(18) "Physical Abuse" means causing nonaccidental physical harm to a child.~~
- ~~(19) "Play Equipment Platform" means a flat surface on a piece of stationary play equipment intended for more than one user to stand on, and upon which the users can move freely.~~
- ~~(20) "Protective Barrier" means an enclosing structure such as bars, lattice, or a solid panel, around an elevated play equipment platform that is intended to prevent a child from either accidentally or deliberately passing through the barrier.~~
- ~~(21) "Protective cushioning" means cushioning material that is approved by the American Society for Testing and Materials. For example, sand, pea gravel, engineered wood fibers, shredded tires, or unitary cushioning material, such as rubber mats or poured rubber-like material.~~

~~\_\_\_\_\_ (22) "Provider" means the licensee or a staff member to whom the licensee has delegated a duty under this rule.~~

~~\_\_\_\_\_ (23) "Sanitize" means to remove soil and small amounts of certain bacteria from a surface or object with a chemical agent.~~

~~\_\_\_\_\_ (24) "Sexual Abuse" means abuse as defined in Utah Code, Section 76-5-404.1(2).~~

~~\_\_\_\_\_ (25) "Sexually Explicit Material" means any depiction of sexually explicit conduct, as defined in Utah Code, Section 76-5a-2(8).~~

~~\_\_\_\_\_ (26) "Stationary Play Equipment" means equipment such as a climber, a slide, a swing, a merry-go-round, or a spring rocker that is meant to stay in one location when children use it. Stationary play equipment does not include:~~

~~\_\_\_\_\_ (a) a sandbox;~~

~~\_\_\_\_\_ (b) a stationary circular tricycle;~~

~~\_\_\_\_\_ (c) a sensory table; or~~

~~\_\_\_\_\_ (d) a playhouse, if the playhouse has no play equipment, such as a slide, swing, ladder, or climber attached to it.~~

~~\_\_\_\_\_ (27) "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.~~

~~\_\_\_\_\_ (28) "Volunteer" means a person who provides care to a child but does not receive direct or indirect compensation for doing so. A volunteer is not included in the provider to child ratio, unless the volunteer meets all of the caregiver requirements of this rule.~~

#### **R430-70-3. License Required.**

~~\_\_\_\_\_ (1) A person or persons must be licensed to provide child care if:~~

~~\_\_\_\_\_ (a) they provide care in the absence of the child's parent;~~

~~\_\_\_\_\_ (b) they provide care for five or more children;~~

~~\_\_\_\_\_ (c) they provide care in a place other than the provider's home or the child's home;~~

~~\_\_\_\_\_ (d) the program is open to children on an ongoing basis, on three or more days a week and for 30 or more days in a calendar year; and~~

~~\_\_\_\_\_ (e) they provide care for direct or indirect compensation.~~

~~\_\_\_\_\_ (2) A person or persons may be licensed as an out of school time program under this rule if:~~

~~\_\_\_\_\_ (a) they either provide care for two or more hours per day on days when school is in session for the child in care, and four or more hours per day on days when school is not in session for the child in care; or they provide care for four or more hours per day on days when school is not in session; and~~

~~\_\_\_\_\_ (b) all of the children who attend the program are at least five years of age.~~

#### **R430-70-4. Facility.**

~~\_\_\_\_\_ (1) The licensee shall ensure that any building or playground structure constructed prior to 1978 which has peeling, flaking, chalking, or failing paint is tested for lead-based paint. If lead-based paint is found, the licensee shall contact the local health department and follow all required procedures for the removal of the lead-based paint.~~

~~\_\_\_\_\_ (2) There shall be at least two working toilets and two working sinks accessible to the children in care.~~

~~\_\_\_\_\_ (3) If there are more than 50 children in attendance, there shall be one additional working sink and one additional working toilet for each additional group of 1 to 25 children.~~

~~\_\_\_\_\_ (4) Children shall have privacy when using the bathroom.~~

~~\_\_\_\_\_ (5) For buildings newly licensed under this rule after 30 June 2010 there shall be a working hand washing sink in each classroom.~~

~~\_\_\_\_\_ (6) In gymnasiums, and in classrooms in buildings licensed before 30 June 2010, hand sanitizer must be available to children in care if there is not a handwashing sink in the room.~~

~~\_\_\_\_\_ (7) All rooms and occupied areas in the building shall be ventilated by mechanical ventilation or by windows that open and have screens.~~

~~\_\_\_\_\_ (8) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.~~

~~\_\_\_\_\_ (9) The provider shall maintain adequate light intensity for the safety of children and the type of activity being conducted by keeping lighting equipment in good working condition.~~

~~\_\_\_\_\_ (10) Windows and glass doors within 36 inches from the floor or ground shall be made of safety glass, or have a protective guard.~~

~~\_\_\_\_\_ (11) There shall be at least 35 square feet of indoor space for each child, including the licensee's and employees' children who are not counted in the caregiver to child ratios.~~

~~\_\_\_\_\_ (12) Indoor space per child may include floor space used for furniture, fixtures, or equipment if the furniture, fixture, or equipment is used:~~

~~\_\_\_\_\_ (a) by children;~~

~~\_\_\_\_\_ (b) for the care of children; or~~

~~\_\_\_\_\_ (c) to store classroom materials.~~

~~\_\_\_\_\_ (13) Bathrooms, closets, staff lockers, hallways, corridors, lobbies, kitchens, or staff offices are not included when calculating indoor space for children's use.~~

#### **R430-70-5. Cleaning and Maintenance.**

~~\_\_\_\_\_ (1) The provider shall maintain a clean and sanitary environment.~~

~~\_\_\_\_\_ (2) The provider shall clean and sanitize bathroom surfaces daily, including toilets, sinks, faucets, and counters.~~

~~\_\_\_\_\_ (3) The provider shall take safe and effective measures to prevent and eliminate the presence of insects, rodents, and other vermin.~~

~~\_\_\_\_\_ (4) The provider shall maintain ceilings, walls, floor coverings, draperies, blinds, furniture, fixtures, and equipment in good repair to prevent injury to children.~~

~~\_\_\_\_\_ (5) The provider shall maintain entrances, exits, steps and outside walkways in a safe condition, and free of ice, snow, and other hazards.~~

#### **R430-70-6. Outdoor Environment.**

~~\_\_\_\_\_ (1) There shall be an outdoor play area for children that is safely accessible to children.~~

~~\_\_\_\_\_ (2) The outdoor play area shall have at least 40 square feet of space for each child using the playground at the same time.~~

~~\_\_\_\_\_ (3) The outdoor play area shall accommodate at least 33 percent of the licensed capacity at one time or shall be at least 1600 square feet.~~

~~\_\_\_\_\_ (4) The outdoor play area used by children shall be enclosed within a 4 foot high fence or wall, or a solid natural barrier that is at least 4 feet high.~~



(5) There shall be no openings greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter anywhere in the outdoor play area where children's feet cannot touch the ground.

(6) When in use, the outdoor play area shall be free of animal excrement, harmful plants, harmful objects, harmful substances, and standing water.

(7) The outdoor play area shall have a shaded area to protect children from excessive sun and heat.

(8) Children shall have unrestricted access to drinking water whenever the outside temperature is 75 degrees or higher.

(9) All outdoor play equipment and areas shall comply with the following safety standards by the dates specified in Subsection (10) below:

(a) All stationary play equipment used by children shall meet the following requirements for use zones:

(i) If the height of a designated play surface or climbing bar on a piece of equipment, excluding swings, is greater than 30 inches, it shall have use zones that meet the following criteria:

(A) The use zone shall extend a minimum of 6 feet in all directions from the perimeter of each piece of equipment.

(B) The use zones of two pieces of equipment that are positioned adjacent to one another may overlap if the designated play surfaces of each structure are no more than 30 inches above the protective surfacing underneath the equipment. In such cases, there shall be a minimum of 6 feet between the adjacent pieces of equipment.

(C) There shall be a minimum use zone of 9 feet between adjacent pieces of equipment if the designated play surface of one or both pieces of equipment is more than 30 inches above the protective surfacing underneath the equipment.

(ii) The use zone in the front and rear of a single-axis swing shall extend a minimum distance of twice the height of the pivot point of the swing, and may not overlap the use zone of any other piece of equipment.

(iii) The use zone for the sides of a single-axis swing shall extend a minimum of 6 feet from the perimeter of the structure, and may overlap the use zone of a separate piece of equipment.

(iv) The use zone of a multi-axis swing shall extend a minimum distance of 6 feet plus the length of the suspending members, and shall never overlap the use zone of another piece of equipment.

(v) The use zone for merry-go-rounds shall never overlap the use zone of another piece of equipment.

(vi) The use zone for spring rockers shall extend a minimum of 6 feet from the at-rest perimeter of the equipment.

(b) Protective cushioning is required in all use zones.

(c) If sand, gravel, or shredded tires are used as protective cushioning, the depth of the material shall meet the CPSC guidelines in Table 1. The provider shall ensure that the material is periodically checked for compaction, and if compacted, shall loosen the material to the depth listed in Table 1. If the material cannot be loosened due to extreme weather conditions, the provider shall not allow children to play on the equipment until the material can be loosened to the required depth.

TABLE 1

Depths of Protective Cushioning Required for Sand, Gravel, and Shredded Tires

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Fine Sand		Coarse Sand		Medium Gravel		Shredded Tires
	Fine Sand	Coarse Sand	Fine Gravel	Medium Gravel	Shredded Tires		
4' high or less	6"	6"	6"	6"	6"		
Over 4' up to 5'	6"	6"	6"	6"	6"		
Over 5' up to 6'	12"	12"	6"	12"	6"		
Over 6' up to 7'	12"	Not Allowed	9"	Not Allowed	6"		
Over 7' up to 8'	12"	Not Allowed	12"	Not Allowed	6"		
Over 8' up to 9'	12"	Not Allowed	12"	Not Allowed	6"		
Over 9' up to 10'	Not Allowed	Not Allowed	12"	Not Allowed	6"		
Over 10' up to 11'	Not Allowed	Not Allowed	Not Allowed	Not Allowed	6"		
Over 11' up to 12'	Not Allowed	Not Allowed	Not Allowed	Not Allowed	6"		

(d) If shredded wood products are used as protective cushioning, the depth of the shredded wood shall meet the CPSC guidelines in Table 2.

TABLE 2

Depths of Protective Cushioning Required for Shredded Wood Products

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Engineered Wood Fibers		Double Shredded Wood Chips		Bark Mulch
	Engineered Wood Fibers	Double Shredded Wood Chips	Bark Mulch		
4' high or less	6"	6"	6"		
Over 4' up to 5'	6"	6"	6"		
Over 5' up to 6'	6"	6"	6"		
Over 6' up to 7'	9"	6"	9"		
Over 7' up to 8'	12"	9"	9"		
Over 8' up to 9'	12"	9"	9"		
Over 9' up to 10'	12"	9"	9"		
Over 10' up to 11'	12"	12"	12"		
Over 11'	12"	Not Allowed	Not Allowed		

(e) If wood products are used as cushioning material:

(i) the providers shall maintain documentation from the manufacturer verifying that the material meets ASTM Specification F 1292, which is adopted by reference; and

(ii) there shall be adequate drainage under the material.

(f) If a unitary cushioning material, such as rubber mats or poured rubber-like material is used as protective cushioning:

(i) the licensee shall ensure that the material meets the standard established in ASTM Specification F 1292. The provider shall maintain documentation from the manufacturer that the material meets these specifications.

\_\_\_\_\_ (ii) the licensee shall ensure that the cushioning material is securely installed, so that it cannot become displaced when children jump, run, walk, land, or move on it, or be moved by children picking it up.

\_\_\_\_\_ (g) Stationary play equipment that has a designated play surface less than 30 inches and that does not have moving parts children sit or stand on, may be placed on grass, but shall not be placed on concrete, asphalt, dirt, or any other hard surface.

\_\_\_\_\_ (h) Stationary play equipment shall have protective barriers on all play equipment platforms that are over 48 inches above the ground. The bottom of the protective barrier shall be less than 3-1/2 inches above the surface of the platform, and there shall be no openings greater than 3-1/2 inches in the barrier. The top of the protective barrier shall be at least 38 inches above the surface of the platform.

\_\_\_\_\_ (i) There shall be no openings greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter on any piece of stationary play equipment, or within or adjacent to the use zone of any piece of stationary play equipment.

\_\_\_\_\_ (j) There shall be no protrusion or strangulation hazards on, within the use zone of, or adjacent to the use zone of any piece of stationary play equipment.

\_\_\_\_\_ (k) There shall be no crush, shearing, or sharp edge hazards on, within the use zone of, or adjacent to the use zone of any piece of stationary play equipment.

\_\_\_\_\_ (l) There shall be no tripping hazards, such as concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.

\_\_\_\_\_ (10) The outdoor play equipment rules specified in Subsection (9) above must be in compliance by the following dates:

\_\_\_\_\_ (a) by December 31, 2009: R430-70-6(9)(b-f). There is protective cushioning in all existing use zones that meets the requirements for depth and ASTM Standards.

\_\_\_\_\_ (b) by December 31, 2010:

\_\_\_\_\_ (i) R430-70-6(9)(g). Stationary play equipment that has a designated play surface less than 30 inches, and that does not have moving parts children sit or stand on, is not placed on concrete, asphalt, dirt, or any other hard surface, unless equipment is installed in concrete or asphalt footings.

\_\_\_\_\_ (ii) R430-70-6(9)(j). There are no protrusion or strangulation hazards in or adjacent to the use zone of any piece of stationary play equipment.

\_\_\_\_\_ (c) By December 31, 2011: R430-70-6(9)(g). Stationary play equipment that has a designated play surface less than 30 inches, and that does not have moving parts children sit or stand on, is not placed on concrete, asphalt, dirt, or any other hard surface.

\_\_\_\_\_ (d) By December 31, 2012:

\_\_\_\_\_ (i) R430-70-6(9)(h). Protective barriers are installed on all stationary play equipment that requires them, and the barriers meet the required specifications.

\_\_\_\_\_ (ii) R430-70-6(9)(i). There are no openings greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter on any piece of stationary play equipment, or within or adjacent to the use zone of any piece of stationary play equipment.

\_\_\_\_\_ (iii) R430-70-6(9)(k). There are no crush, shearing, or sharp edge hazards in or adjacent to the use zone of any piece of stationary play equipment.

\_\_\_\_\_ (e) By December 31, 2013:

\_\_\_\_\_ (i) R430-70-6(9)(a)(i-vi). All stationary play equipment has use zones that meet the required measurements.

\_\_\_\_\_ (ii) R430-70-6(9)(l). There are no tripping hazards, such as concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.

\_\_\_\_\_ (11) The provider shall maintain playgrounds and playground equipment to protect children's safety.

#### **R430-70-7. Personnel.**

\_\_\_\_\_ (1) The program must have a director who is at least 21 years of age and who has one of the following educational credentials:

\_\_\_\_\_ (a) an associates, bachelors, or graduate degree from an accredited college and successful completion of at least 12 semester credit hours of coursework in childhood development, elementary education, or a related field;

\_\_\_\_\_ (b) a currently valid national certification such as a Certified Childcare Professional (CCP) issued by the National Child Care Association, a Child Development Associate (CDA) issued by the Council for Early Childhood Professional Recognition, or other credential that the licensee demonstrates as equivalent to the Department; or

\_\_\_\_\_ (c) a currently valid National Administrator Credential (NAC) issued by the National Child Care Association, plus one of the following:

\_\_\_\_\_ (i) valid proof of successful completion of 12 semester credit hours of coursework in childhood development, elementary education, or a related field; or

\_\_\_\_\_ (ii) valid proof of completion of the following six Utah Career Ladder courses offered through Child Care Resource and Referral: Child Development: Ages and Stages; Advanced Child Development; School Age Course 1; School Age Course 2; School Age Course 3; and School Age Course 4.

\_\_\_\_\_ (2) All caregivers shall be at least 18 years of age.

\_\_\_\_\_ (3) All assistant caregivers shall be at least 16 years of age, and shall work under the immediate supervision of a caregiver who is at least 18 years of age.

\_\_\_\_\_ (4) Assistant caregivers may be included in caregiver to child ratios, but shall not be left unsupervised with children.

\_\_\_\_\_ (5) Assistant caregivers shall meet all of the caregiver requirements under this rule, except the caregiver age requirement of 18 years.

\_\_\_\_\_ (6) Whenever there are more than 8 children at the program, there shall be at least two caregivers present who can demonstrate the English literacy skills needed to care for children and respond to emergencies. If there is only one caregiver present because there are 8 or fewer children at the program, that caregiver must be able to demonstrate the English literacy skills needed to care for children and respond to emergencies.

\_\_\_\_\_ (7) Each new director, assistant director, caregiver, assistant caregiver, and volunteer shall receive orientation training prior to assuming caregiving duties. Orientation training shall be documented and shall include the following topics:

\_\_\_\_\_ (a) job description and duties;

\_\_\_\_\_ (b) the program's written policies and procedures;

\_\_\_\_\_ (c) the program's emergency and disaster plan;

\_\_\_\_\_ (d) the current child care licensing rules found in Sections R430-70-11 through 22;

- ~~\_\_\_\_\_ (e) introduction and orientation to the children assigned to the caregiver;~~
- ~~\_\_\_\_\_ (f) a review of the information in the health assessment for each child in their assigned group;~~
- ~~\_\_\_\_\_ (g) procedure for releasing children to authorized individuals only;~~
- ~~\_\_\_\_\_ (h) proper clean up of body fluids;~~
- ~~\_\_\_\_\_ (i) signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;~~
- ~~\_\_\_\_\_ (j) obtaining assistance in emergencies, as specified in the program's emergency and disaster plan.~~
- ~~\_\_\_\_\_ (8) The program director, assistant director, all caregivers, and substitutes who work an average of 10 hours a week or more, as averaged over any three month period, shall complete a minimum of 2 hours of training for each month during which they are employed, or 20 hours of training each year, based on the program's license date.~~
- ~~\_\_\_\_\_ (a) Documentation of annual training shall be kept in each caregiver's file, and shall include the name of the training organization, the date, the training topic, and the total hours or minutes of training.~~
- ~~\_\_\_\_\_ (b) Annual training hours shall include the following topics:~~
  - ~~\_\_\_\_\_ (i) a review of the current child care licensing rules found in Sections R430-70-11 through 22;~~
  - ~~\_\_\_\_\_ (ii) a review of the program's written policies and procedures and emergency and disaster plans, including any updates;~~
  - ~~\_\_\_\_\_ (iii) signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;~~
  - ~~\_\_\_\_\_ (iv) principles of child growth and development, including development of the brain; and~~
  - ~~\_\_\_\_\_ (v) positive guidance.~~
- ~~\_\_\_\_\_ (9) A minimum of 10 hours of the required annual in-service training shall be face-to-face instruction.~~

**R430-70-8. Administration:**

- ~~\_\_\_\_\_ (1) The licensee is responsible for all aspects of the operation and management of the program.~~
- ~~\_\_\_\_\_ (2) The licensee shall comply with all federal, state, and local laws and rules pertaining to the operation of a child care program.~~
- ~~\_\_\_\_\_ (3) The provider shall not engage in or allow conduct that is adverse to the public health, morals, welfare, and safety of the children in care.~~
- ~~\_\_\_\_\_ (4) The provider shall take all reasonable measures to protect the safety of children in care. The licensee shall not engage in activity or allow conduct that unreasonably endangers children in care.~~
- ~~\_\_\_\_\_ (5) Either the program director or a designee with authority to act on behalf of the program director shall be present at the facility whenever the program is open for care.~~
- ~~\_\_\_\_\_ (6) Director designees shall be at least 21 years of age, and shall have completed their orientation training.~~
- ~~\_\_\_\_\_ (7) Each week, the program director shall be on-site at the program during operating hours for at least 50% of the time the program is open to children, in order to fulfill the duties specified in this rule, and to ensure compliance with this rule.~~
- ~~\_\_\_\_\_ (8) The program director must have sufficient freedom from other responsibilities to manage the program and respond to emergencies.~~
- ~~\_\_\_\_\_ (9) There shall be a working telephone at the facility, and the program director shall inform each child's parent and the~~

Department of any changes to the program's telephone number within 48 hours of the change.

~~\_\_\_\_\_ (10) The provider shall call the Department within 24 hours to report any fatality, hospitalization, emergency medical response, or injury that requires attention from a health care provider, unless an emergency medical transport was part of a child's medical treatment plan identified by the parent. The provider shall also mail or fax a written report to the Department within five days of the incident.~~

~~\_\_\_\_\_ (11) The duties and responsibilities of the program director include the following:~~

- ~~\_\_\_\_\_ (a) appoint one or more individuals who meet the background screening and training requirements of this rule to be a director designee, with authority to act on behalf of the program director in his or her absence;~~
- ~~\_\_\_\_\_ (b) train and supervise staff to:~~
  - ~~\_\_\_\_\_ (i) ensure their compliance with this rule;~~
  - ~~\_\_\_\_\_ (ii) ensure they meet the needs of the children in care as specified in this rule; and~~
  - ~~\_\_\_\_\_ (iii) ensure that children are not subjected to emotional, physical, or sexual abuse while in care.~~
- ~~\_\_\_\_\_ (12) The provider shall establish and follow written policies and procedures for the health and safety of the children in care. The written policies and procedures shall address at least the following areas:~~
  - ~~\_\_\_\_\_ (a) supervision and protection of children at all times, including when they are using the bathroom, on the playground, and during off-site activities;~~
  - ~~\_\_\_\_\_ (b) maintaining required caregiver to child ratios when the program has more than the expected number of children, or fewer than the scheduled number of caregivers;~~
  - ~~\_\_\_\_\_ (c) procedures to account for each child's attendance and whereabouts;~~
  - ~~\_\_\_\_\_ (d) procedures to ensure that the program releases children to authorized individuals only;~~
  - ~~\_\_\_\_\_ (e) confidentiality and release of information;~~
  - ~~\_\_\_\_\_ (f) the use of movies and video or computer games, including what industry ratings the program allows;~~
  - ~~\_\_\_\_\_ (g) recognizing early signs of illness and determining when there is a need for exclusion from the program;~~
  - ~~\_\_\_\_\_ (h) discipline of children, including behavioral expectations of children and discipline methods used;~~
  - ~~\_\_\_\_\_ (i) transportation to and from off-site activities, or to and from home, if the program offers these services; and~~
  - ~~\_\_\_\_\_ (j) if the program offers transportation to or from school; policies addressing:
 
    - ~~\_\_\_\_\_ (i) how long children will be unattended before and after school;~~
    - ~~\_\_\_\_\_ (ii) what steps will be taken if children fail to meet the vehicle;~~
    - ~~\_\_\_\_\_ (iii) how and when parents will be notified of delays or problems with transportation to and from school; and~~
    - ~~\_\_\_\_\_ (iv) the use of size-appropriate safety restraints.~~~~
  - ~~\_\_\_\_\_ (k) if the program has a computer that is connected to the internet and that is accessible to any child in care:
 
    - ~~\_\_\_\_\_ (i) written policies for parents explaining how children's computer use is monitored; and~~
    - ~~\_\_\_\_\_ (ii) a signed parent permission form for each child who is allowed to use the computer.~~~~

\_\_\_\_\_ (13) The provider shall ensure that the written policies and procedures are available for review by parents, staff, and the Department during business hours.

**R430-70-9. Records.**

\_\_\_\_\_ (1) The provider shall maintain the following general records on site for review by the Department:

\_\_\_\_\_ (a) documentation of the previous 12 months of fire and disaster drills as specified in R430-70-10(9) and R430-70-10(11);

\_\_\_\_\_ (b) current animal vaccination records as required in R430-70-22(3);

\_\_\_\_\_ (c) a six week record of child attendance, including sign-in and sign-out records;

\_\_\_\_\_ (d) a current local health department inspection;

\_\_\_\_\_ (e) a current local fire department inspection;

\_\_\_\_\_ (f) if the licensee has been licensed for one or more years, the most recent "Request for Annual Renewal of CBS/LIS Criminal History Information for Child Care" which includes the licensee and all current providers, caregivers, and volunteers; and

\_\_\_\_\_ (g) if the licensee has been licensed for one or more years, the most recent criminal background "Disclosure and Consent Statement" which includes the licensee and all current providers, caregivers, and volunteers.

\_\_\_\_\_ (2) The provider shall maintain the following records for each currently enrolled child on-site for review by the Department:

\_\_\_\_\_ (a) an admission form containing the following information for each child:

\_\_\_\_\_ (i) name;

\_\_\_\_\_ (ii) date of birth;

\_\_\_\_\_ (iii) the parent's name, address, and phone number, including a daytime phone number;

\_\_\_\_\_ (iv) the names of people authorized by the parent to pick up the child;

\_\_\_\_\_ (v) the name, address and phone number of a person to be contacted in the event of an emergency if the provider is unable to contact the parent;

\_\_\_\_\_ (vi) if available, the name, address, and phone number of an out of area/state emergency contact person for the child; and

\_\_\_\_\_ (vii) current emergency medical treatment and emergency medical transportation releases with the parent's signature;

\_\_\_\_\_ (b) a current annual health assessment form as required in R430-70-14(5);

\_\_\_\_\_ (c) a transportation permission form, if the program provides transportation services;

\_\_\_\_\_ (d) a six week record of medication permission forms, and a six week record of medications actually administered; and

\_\_\_\_\_ (e) a six week record of incident, accident, and injury reports.

\_\_\_\_\_ (3) The provider shall ensure that information in children's files is not released without written parental permission.

\_\_\_\_\_ (4) The provider shall maintain the following records for each staff member on-site for review by the Department:

\_\_\_\_\_ (a) date of initial employment;

\_\_\_\_\_ (b) approved initial "CBS/LIS Consent and Release of Liability for Child Care" form;

\_\_\_\_\_ (c) a six week record of days and hours worked;

\_\_\_\_\_ (d) orientation training documentation for caregivers, and for volunteers who work at the program at least once each month;

\_\_\_\_\_ (e) annual training documentation for all providers and substitutes who work an average of 10 hours a week or more, as averaged over any three month period; and

\_\_\_\_\_ (f) current first aid and CPR certification, if applicable as required in R430-70-10(2), R430-70-20(5)(d), and R430-70-21(2).

**R430-70-10. Emergency Preparedness.**

\_\_\_\_\_ (1) The provider shall post the program's street address and emergency numbers, including ambulance, fire, police, and poison control, near each telephone in the facility.

\_\_\_\_\_ (2) At least one person at the facility at all times when children are in care shall have a current Red Cross, American Heart Association, or equivalent first aid and CPR certification.

\_\_\_\_\_ (3) The program shall maintain first aid supplies in the center, including at least antiseptic, band-aids, and tweezers.

\_\_\_\_\_ (4) The provider shall have a written emergency and disaster plan which shall include at least the following:

\_\_\_\_\_ (a) procedures for responding to medical emergencies and serious injuries that require treatment by a health care provider;

\_\_\_\_\_ (b) procedures for responding to fire, earthquake, flood, power failure, and water failure;

\_\_\_\_\_ (c) the location of and procedure for emergency shut off of gas, electricity, and water;

\_\_\_\_\_ (d) an emergency relocation site where children may be housed if the facility is uninhabitable;

\_\_\_\_\_ (e) a means of posting the relocation site address in a conspicuous location that can be seen even if the facility is closed;

\_\_\_\_\_ (f) the transportation route and means of getting staff and children to the emergency relocation site;

\_\_\_\_\_ (g) a means of accounting for each child's presence in route to and at the relocation site;

\_\_\_\_\_ (h) a means of accessing children's emergency contact information and emergency releases; including contact information for an out of area/state emergency contact person for the child, if available;

\_\_\_\_\_ (i) provisions for emergency supplies, including at least food, water, a first aid kit, and a cell phone;

\_\_\_\_\_ (j) procedures for ensuring adequate supervision of children during emergency situations, including while at the program's emergency relocation site; and

\_\_\_\_\_ (k) staff assignments for specific tasks during an emergency.

\_\_\_\_\_ (5) The provider shall ensure that the emergency and disaster plan is followed in the event of an emergency.

\_\_\_\_\_ (6) The provider shall review the emergency and disaster plan annually, and update it as needed. The provider shall note the date of reviews and updates to the plan on the plan.

\_\_\_\_\_ (7) The emergency and disaster plan shall be available for immediate review by staff, parents, and the Department during business hours.

\_\_\_\_\_ (8) The provider shall conduct fire evacuation drills monthly during each month that the program is open. Drills shall include complete exit of all children and staff from the building.

\_\_\_\_\_ (9) The provider shall document all fire drills, including:

\_\_\_\_\_ (a) the date and time of the drill;

\_\_\_\_\_ (b) the number of children participating;

\_\_\_\_\_ (c) the name of the person supervising the drill;

\_\_\_\_\_ (d) the total time to complete the evacuation; and

\_\_\_\_\_ (e) any problems encountered.

~~\_\_\_\_\_ (10) The provider shall conduct drills for disasters other than fires at least once every six months that the program is open.~~

~~\_\_\_\_\_ (11) The provider shall document all disaster drills, including:~~

~~\_\_\_\_\_ (a) the type of disaster, such as earthquake, flood, prolonged power outage, tornado;~~

~~\_\_\_\_\_ (b) the date and time of the drill;~~

~~\_\_\_\_\_ (c) the number of children participating;~~

~~\_\_\_\_\_ (d) the name of the person supervising the drill; and~~

~~\_\_\_\_\_ (e) any problems encountered.~~

~~\_\_\_\_\_ (12) The program shall vary the days and times on which fire and other disaster drills are held.~~

**R430-70-11. Supervision and Ratios:**

~~\_\_\_\_\_ (1) The provider shall ensure that caregivers provide and maintain direct supervision of all children at all times.~~

~~\_\_\_\_\_ (2) Caregivers shall actively supervise children on the playground to minimize the risk of injury to a child.~~

~~\_\_\_\_\_ (3) There shall be at least two caregivers with the children at all times when there are more than 8 children present.~~

~~\_\_\_\_\_ (4) The licensee shall maintain a minimum caregiver to child ratio of one caregiver for every 20 children.~~

~~\_\_\_\_\_ (5) The licensee shall maintain a maximum group size of 40 children per group.~~

~~\_\_\_\_\_ (6) The children of the licensee or any employee are not counted in the caregiver to child ratios when the parent of the child is working at the program, but are counted in the maximum group size.~~

**R430-70-12. Injury Prevention:**

~~\_\_\_\_\_ (1) The provider shall ensure that the building, grounds, toys, and equipment are maintained and used in a safe manner to prevent injury to children.~~

~~\_\_\_\_\_ (2) The provider shall ensure that walkways are free of tripping hazards such as unsecured flooring or cords.~~

~~\_\_\_\_\_ (3) Areas accessible to children shall be free of unstable heavy equipment, furniture, or other items that children could pull down on themselves.~~

~~\_\_\_\_\_ (4) The following items shall be inaccessible to children:~~

~~\_\_\_\_\_ (a) firearms, ammunition, and other weapons on the premises. Firearms shall be stored separately from ammunition, in a cabinet or area that is locked with a key or combination lock, unless the use is in accordance with the Utah Concealed Weapons Act, or as otherwise allowed by law;~~

~~\_\_\_\_\_ (b) tobacco, alcohol, illegal substances, and sexually explicit material;~~

~~\_\_\_\_\_ (c) when in use, portable space heaters, fireplaces, and wood burning stoves;~~

~~\_\_\_\_\_ (d) toxic or hazardous chemicals such as insecticides, lawn products, and flammable materials;~~

~~\_\_\_\_\_ (e) poisonous plants;~~

~~\_\_\_\_\_ (f) matches or cigarette lighters;~~

~~\_\_\_\_\_ (g) open flames; and~~

~~\_\_\_\_\_ (h) razors or similarly sharp blades.~~

~~\_\_\_\_\_ (5) The provider shall store all toxic or hazardous chemicals in a container labeled with its contents.~~

~~\_\_\_\_\_ (6) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.~~

~~\_\_\_\_\_ (7) Indoor stationary gross motor play equipment, such as slides and climbers, shall not have a designated play surface that~~

~~exceeds 5-1/2 feet in height. If such equipment has an elevated designated play surface that is 3 feet or higher it shall be surrounded by cushioning that meets ASTM Standard F1292, in a six foot use zone.~~

~~\_\_\_\_\_ (8) There shall be no trampolines on the premises that are accessible to children in care.~~

~~\_\_\_\_\_ (9) If there is a swimming pool on the premises that is not emptied after each use:~~

~~\_\_\_\_\_ (a) the provider shall ensure that the pool is enclosed within a fence or other solid barrier at least six feet high that is kept locked whenever the pool is not in use;~~

~~\_\_\_\_\_ (b) the provider shall maintain the pool in a safe manner;~~

~~\_\_\_\_\_ (c) the provider shall meet all applicable state and local laws and ordinances related to the operation of a swimming pool; and~~

~~\_\_\_\_\_ (d) If the pool is over four feet deep, there shall be a Red Cross certified life guard on duty, or a lifeguard certified by another agency that the licensee can demonstrate to the Department to be equivalent to Red Cross certification, any time children have access to the pool.~~

**R430-70-13. Parent Notification and Child Security:**

~~\_\_\_\_\_ (1) The provider shall post a copy of the Department's child care guide in the facility for parents' review during business hours.~~

~~\_\_\_\_\_ (2) Parents shall have access to the facility and their child's classroom at all times their child is in care.~~

~~\_\_\_\_\_ (3) The provider shall ensure the following procedures are followed when children arrive at the facility or leave the facility:~~

~~\_\_\_\_\_ (a) Each child must be signed in and out of the facility, including the date and time the child arrives or leaves.~~

~~\_\_\_\_\_ (b) Children may sign themselves in and out of the program only with written permission from the parent.~~

~~\_\_\_\_\_ (c) Persons signing children into the facility shall use identifiers, such as a signature, initials, or electronic code.~~

~~\_\_\_\_\_ (d) Persons signing children out of the facility shall use identifiers, such as a signature, initials, or electronic code, and shall have photo identification if they are unknown to the provider.~~

~~\_\_\_\_\_ (e) Only parents or persons with written authorization from the parent may take any child from the facility. In an emergency, the provider may accept verbal authorization if the provider can confirm the identity of the person giving the verbal authorization and the identity of the person picking up the child.~~

~~\_\_\_\_\_ (4) The provider shall give parents a written report of every incident, accident, or injury involving their child on the day of occurrence. The caregivers involved, the program director or director designee, and the person picking the child up shall sign the report on the day of occurrence. If the child signs him or herself out of the program, a copy of the report shall be mailed to the parent.~~

~~\_\_\_\_\_ (5) If a child is injured and the injury appears serious but not life threatening, the provider shall contact the parent immediately, in addition to giving the parent a written report of the injury.~~

~~\_\_\_\_\_ (6) In the case of a life threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb, the provider shall contact emergency personnel immediately, before contacting the parent. If the parent cannot be reached after emergency personnel have been contacted, the provider shall attempt to contact the child's emergency contact person.~~

**R430-70-14. Child Health:**

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

(2) All staff shall follow the reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation found in Utah Code, Section 62A-4a-403 and 62A-4a-411.

(3) The use of tobacco, alcohol, illegal substances, or sexually explicit material on the premises or in program vehicles is prohibited any time that children are in care.

(4) The provider shall not admit any child to the program without a signed health assessment completed by the parent which shall include:

- (a) allergies;
- (b) food sensitivities;
- (c) acute and chronic medical conditions;
- (d) instructions for special or non-routine daily health care;
- (e) current medications; and,
- (f) any other special health instructions for the caregiver.

(5) The provider shall ensure that each child's health assessment is reviewed, updated, and signed or initialed by the parent at least annually.

#### **R430-70-15. Child Nutrition.**

(1) If food service is provided:

(a) The provider shall ensure that the program's meal service complies with local health department food service regulations.

(b) Foods served by programs not currently participating and in good standing with the USDA Child and Adult Care Food Program (CACFP) shall comply with the nutritional requirements of the CACFP. The licensee shall either use standard Department-approved menus, menus provided by the CACFP, or menus approved by a registered dietician. Dietitian approval shall be noted and dated on the menus, and shall be current within the past 5 years.

(c) Programs not currently participating and in good standing with the CACFP shall keep a six week record of foods served at each meal or snack.

(d) The provider shall post the current week's menu for parent review.

(2) On days when care is provided for three or more hours, the provider shall offer each child in care a meal or snack at least once every three hours.

(3) The provider shall serve children's food on dishes or napkins, except for individual serving size items, such as crackers, if they are placed directly in the children's hands. The provider shall not place food on a bare table.

(4) If any child in care has a food allergy, the provider shall ensure that all caregivers who serve food to children are aware of the allergy, and that children are not served the food or drink they have an allergy or sensitivity to.

(5) The provider shall ensure that food and drink brought in by parents for an individual child's use is labeled with the child's name, and refrigerated if needed, and shall ensure that the food or drink is only consumed by that child.

#### **R430-70-16. Infection Control.**

(1) All staff shall wash their hands thoroughly with liquid soap and warm running water at the following times:

- (a) before handling or preparing food;
- (b) before eating meals and snacks or feeding children;
- (c) after using the toilet;
- (d) before administering medication;
- (e) after coming into contact with body fluids;

(f) after playing with or handling animals; and

(g) after cleaning or taking out garbage.

(2) The provider shall ensure that children wash their hands thoroughly with liquid soap and warm running water at the following times:

- (a) before eating meals and snacks;
- (b) after using the toilet;
- (c) after coming into contact with body fluids; and
- (d) after playing with animals.

(3) Only single use towels from a covered dispenser or an electric hand-drying device may be used to dry hands.

(4) The provider shall ensure that toilet paper is accessible to children, and that it is kept on a dispenser.

(5) The provider shall post handwashing procedures in each bathroom, and they shall be followed.

(6) Caregivers shall teach children proper hand-washing techniques and shall oversee hand-washing whenever possible.

(7) Personal hygiene items such as toothbrushes, or combs and hair accessories that are not sanitized between each use, shall not be shared by children or used by staff on more than one child, and shall be stored so that they do not touch each other.

(8) The provider shall clean and sanitize all washable toys and materials weekly, or more often if necessary.

(9) Stuffed animals, cloth dolls, and dress-up clothes must be machine washable. Pillows must be machine washable, or have removable covers that are machine washable. The provider shall wash stuffed animals, cloth dolls, dress-up clothes, and pillows or covers weekly.

(10) If water play tables or tubs are used, they shall be washed and sanitized daily, and children shall wash their hands prior to engaging in the activity.

(11) Persons with contagious TB shall not work or volunteer in the program.

(12) Children's clothing shall be changed promptly if they have a toileting accident.

(13) Children's clothing which is wet or soiled from body fluids:

- (a) shall not be rinsed or washed at the facility; and
- (b) shall be placed in a leakproof container, labeled with the child's name, and returned to the parent.

(14) The facility shall have a portable body fluid clean up kit.

(a) All staff shall know the location of the kit and how to use it.

(b) The provider shall use the kit to clean up spills of body fluids.

(c) The provider shall restock the kit as needed.

(15) The program shall not care for children who are ill with a suspected infectious disease, except when a child shows signs of illness after arriving at the facility.

(16) The provider shall separate children who develop signs of a suspected infectious disease after arriving at the facility from the other children in a safe, supervised location.

(17) The provider shall contact the parents of children who are ill with a suspected infectious disease and ask them to immediately pick up their child. If the provider cannot reach the parent, the provider shall contact the individuals listed as emergency contacts for the child and ask them to pick up the child.

~~(18) The provider shall notify the local health department, on the day of discovery, of any reportable infectious diseases among children or caregivers, or any sudden or extraordinary occurrence of a serious or unusual illness, as required by the local health department.~~

~~(19) The provider shall post a parent notice at the facility when any staff or child has an infectious disease or parasite.~~

~~(a) The provider shall post the notice in a conspicuous location where it can be seen by all parents.~~

~~(b) The provider shall post and date the notice the same day the disease or parasite is discovered, and the notice shall remain posted for at least 5 days.~~

#### **R430-70-17. Medications.**

~~(1) If medications are given, they shall be administered to children only by a provider trained in the administration of medications.~~

~~(2) All over-the-counter and prescription medications shall:~~

- ~~(a) be labeled with the child's full name;~~
- ~~(b) be kept in the original or pharmacy container;~~
- ~~(c) have the original label; and,~~
- ~~(d) have child-safety caps.~~

~~(3) All non-refrigerated medications shall be inaccessible to children and stored in a container or area that is locked, such as a locked room, cupboard, drawer, or a lockbox. The provider shall store all refrigerated medications in a leakproof container.~~

~~(4) The provider shall have a written medication permission form completed and signed by the parent prior to administering any over-the-counter or prescription medication to a child. The permission form must include:~~

- ~~(a) the name of the child;~~
- ~~(b) the name of the medication;~~
- ~~(c) written instructions for administration; including:~~
  - ~~(i) the dosage;~~
  - ~~(ii) the method of administration;~~
  - ~~(iii) the times and dates to be administered; and~~
  - ~~(iv) the disease or condition being treated; and~~
- ~~(d) the parent signature and the date signed.~~

~~(5) If the provider keeps over-the-counter medication at the facility that is not brought in by a parent for their child's use, the medication shall not be administered to any child without prior parental consent for each instance it is given. The consent must be either:~~

- ~~(a) prior written consent; or~~
- ~~(b) oral consent for which a provider documents in writing the date and time of the consent, and which the parent signs upon picking up the child.~~

~~(6) If the provider chooses not to administer medication as instructed by the parent, the provider shall notify the parent of their refusal to administer the medication prior to the time the medication needs to be given.~~

~~(7) When administering medication, the provider administering the medication shall:~~

- ~~(a) wash their hands;~~
- ~~(b) check the medication label to confirm the child's name;~~
- ~~(c) compare the instructions on the parent release form with the directions on the prescription label or product package to ensure that a child is not given a dosage larger than that recommended by the health care provider or the manufacturer;~~
- ~~(d) administer the medication; and~~

~~(e) immediately record the following information:~~

- ~~(i) the date, time, and dosage of the medication given;~~
- ~~(ii) the signature or initials of the provider who administered the medication; and,~~
- ~~(iii) any errors in administration or adverse reactions.~~

~~(8) The provider shall report any adverse reaction to a medication or error in administration to the parent immediately upon recognizing the error or reaction, or after notifying emergency personnel if the reaction is life threatening.~~

#### **R430-70-18. Napping.**

~~If the program offers children the opportunity for rest:~~

~~(1) The provider shall maintain sleeping equipment in good repair.~~

~~(2) If sleeping equipment is clearly assigned to and used by an individual child, the provider must clean and sanitize it as needed, but at least weekly.~~

~~(3) If sleeping equipment is not clearly assigned to and used by an individual child, the provider must clean and sanitize it prior to each use.~~

~~(4) Sleeping equipment may not block exits at any time.~~

#### **R430-70-19. Child Discipline.**

~~(1) The provider shall inform caregivers, parents, and children of the program's behavioral expectations for children.~~

~~(2) The provider may discipline children using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.~~

~~(3) Caregivers may use gentle, passive restraint with children only when it is needed to stop children from injuring themselves or others or from destroying property.~~

~~(4) Discipline measures shall not include any of the following:~~

~~(a) any form of corporal punishment such as hitting, spanking, shaking, biting, pinching, or any other measure that produces physical pain or discomfort;~~

~~(b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds that specified in Subsection (3) above;~~

~~(c) shouting at children;~~

~~(d) any form of emotional abuse;~~

~~(e) forcing or withholding of food, rest, or toileting; and,~~

~~(f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.~~

#### **R430-70-20. Activities.**

~~(1) The provider shall post a daily schedule of activities. The daily schedule shall include, at a minimum, meal, snack, and outdoor play times.~~

~~(2) On days when children are in care for four or more hours, daily activities shall include outdoor play if weather permits.~~

~~(3) The provider shall offer activities to support each child's healthy physical, social-emotional, and cognitive language development. The provider shall post a current activity plan for parent review listing these activities.~~

~~(4) The provider shall make the toys and equipment needed to carry out the activity plan accessible to children.~~

~~(5) If off-site activities are offered:~~

~~(a) the provider shall obtain written parental consent for each activity in advance;~~  
~~(b) caregivers shall take written emergency information and releases with them for each child in the group, which shall include:~~  
~~(i) the child's name;~~  
~~(ii) the parent's name and phone number;~~  
~~(iii) the name and phone number of a person to notify in the event of an emergency if the parent cannot be contacted;~~  
~~(iv) the names of people authorized by the parents to pick up the child; and~~  
~~(v) current emergency medical treatment and emergency medical transportation releases;~~  
~~(c) the provider shall maintain required caregiver to child ratios and direct supervision during the activity;~~  
~~(d) at least one caregiver present shall have a current Red Cross, American Heart Association, or equivalent first aid and CPR certification;~~  
~~(e) caregivers shall take a first aid kit with them;~~  
~~(f) children shall wear or carry with them the name and phone number of the program, but children's names shall not be used on name tags, t-shirts, or other identifiers; and~~  
~~(g) caregivers shall provide a way for children to wash their hands as specified in R430-70-16(2). If there is no source of running water, caregivers and children may clean their hands with wet wipes and hand sanitizer.~~  
~~(6) If swimming activities are offered, caregivers shall remain with the children during the activity, and lifeguards and pool personnel shall not count toward the caregiver to child ratio.~~

**R430-70-21. Transportation.**

~~(1) Any vehicle that is used for transporting children in care, except public bus or train, shall:~~  
~~(a) be enclosed;~~  
~~(b) be equipped with individual, size appropriate safety restraints, properly installed and in working order, for each child being transported;~~  
~~(c) have a current vehicle registration and safety inspection;~~  
~~(d) be maintained in a safe and clean condition;~~  
~~(e) maintain temperatures between 60-90 degrees Fahrenheit when in use;~~  
~~(f) contain a first aid kit; and~~  
~~(g) contain a body fluid clean up kit.~~  
~~(2) At least one adult in each vehicle transporting children shall have a current Red Cross, American Heart Association, or equivalent first aid and CPR certification.~~  
~~(3) The adult transporting children shall:~~  
~~(a) have and carry with them a current valid Utah driver's license, for the type of vehicle being driven, whenever they are transporting children;~~  
~~(b) have with them written emergency contact information for all of the children being transported;~~  
~~(c) ensure that each child being transported is wearing an appropriate individual safety restraint as required by Utah law;~~  
~~(d) ensure that no child is left unattended by an adult in the vehicle;~~  
~~(e) ensure that all children remain seated while the vehicle is in motion;~~  
~~(f) ensure that keys are never left in the ignition when the driver is not in the driver's seat; and,~~

~~(g) ensure that the vehicle is locked during transport.~~

**R430-70-22. Animals.**

~~(1) The provider shall inform parents of the types of animals permitted at the facility.~~  
~~(2) All animals at the facility shall be clean and free of obvious disease or health problems that could adversely affect children.~~  
~~(3) All animals at the facility shall have current immunizations for all vaccine preventable diseases that are transmissible to humans. The program shall have documentation of the vaccinations.~~  
~~(4) There shall be no animal on the premises that has a history of dangerous, attacking, or aggressive behavior, or a history of biting even one person.~~  
~~(5) There shall be no animals or animal equipment in food preparation or eating areas.~~  
~~(6) Children shall not handle reptiles or amphibians.~~

~~**KEY: child care facilities, child care, child care centers, out-of-school time child care programs**~~

~~**Date of Enactment or Last Substantive Amendment: September 1, 2013**~~

~~**Notice of Continuation: May 19, 2014**~~

~~**Authorizing, and Implemented or Interpreted Law: 26-39]**~~

Health, Family Health and  
Preparedness, Child Care Licensing  
**R430-100**  
Child Care Centers

**NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE NO.: 39125

FILED: 02/06/2015

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule is being repealed because of the creation of the new Child Care Center Licensing Committee.

SUMMARY OF THE RULE OR CHANGE: This rule is being repealed because of the creation of the new Child Care Center Licensing Committee. This rule is repealed in its entirety. (DAR NOTE: The proposed new rule R381-100 is under DAR No. 39128 in this issue, March 1, 2015, of the Bulletin.)

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 63G, Chapter 3

ANTICIPATED COST OR SAVINGS TO:

♦ THE STATE BUDGET: Repealing this rule will not change any of the requirements for child care programs. Therefore,



the Department does not anticipate any new costs or savings to child care programs operated by state agencies.

◆ LOCAL GOVERNMENTS: Repealing this rule will not change any of the requirements for child care programs. Therefore, the Department does not anticipate any new costs or savings to child care programs operated by state agencies.

◆ SMALL BUSINESSES: Although almost all child care facilities are small businesses, repealing this rule will not change any of the requirements for child care programs. Therefore, the Department does not anticipate any new costs or savings to child care programs.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Because repealing this rule will not change any of the requirements for child care programs, the Department does not anticipate any new costs or savings to entities or persons that are not small businesses.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Because repealing this rule will not change any of the requirements for child care programs, the Department does not anticipate any compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This repeal will have no impact on business because the same rules are being renumbered and established under Title R381.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH  
 FAMILY HEALTH AND PREPAREDNESS,  
 CHILD CARE LICENSING  
 CANNON HEALTH BLDG  
 288 N 1460 W  
 SALT LAKE CITY, UT 84116-3231  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Simon Bolivar by phone at 801-803-4618, by FAX at 801-237-0786, or by Internet E-mail at sbolivar@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 04/13/2015

AUTHORIZED BY: David Patton, PhD, Executive Director

**R430. Health, Family Health and Preparedness, Child Care Licensing.**

~~[R430-100. Child Care Centers.~~

**R430-100-1. Authority and Purpose.**

— This rule is promulgated pursuant to Title 26, Chapter 39. It establishes standards for the operation and maintenance of child care

centers and requirements to protect the health and safety of children in child care centers.

**R430-100-2. Definitions.**

— (1) "Accredited College" means a college accredited by an agency recognized by the United States Department of Education as a valid accrediting agency.

— (2) "ASTM" means American Society for Testing and Materials.

— (3) "Body fluids" means blood, urine, feces, vomit, mucous, and saliva.

— (4) "Caregiver" means an employee or volunteer who provides direct care to children.

— (5) "CPSC" means the Consumer Product Safety Commission.

— (6) "Department" means the Utah Department of Health.

— (7) "Designated Play Surface" means a flat surface on a piece of stationary play equipment that a child could stand, walk, sit, or climb on, and is at least 2" by 2" in size.

— (8) "Direct Supervision" for infants, toddlers, and preschoolers means the caregiver can see and hear all of the children in his or her assigned group, and is near enough to intervene when necessary. "Direct Supervision" for school age children means the caregiver must be able to hear school age children and must be near enough to intervene when necessary.

— (9) "Emotional Abuse" means behavior that could impair a child's emotional development, such as threatening, intimidating, humiliating, or demeaning a child, constant criticism, rejection, profane language, and inappropriate physical restraint.

— (10) "Group" means the children assigned to one or two caregivers, occupying an individual classroom or an area defined by furniture or another partition within a room.

— (11) "Health Care Provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.

— (12) "Inaccessible to Children" means either locked, such as in a locked room, cupboard or drawer, or with a child safety lock, or in a location that a child can not get to.

— (13) "Infant" means a child aged birth through 11 months of age.

— (14) "Infectious Disease" means an illness that is capable of being spread from one person to another.

— (15) "Licensee" means the legally responsible person or persons holding a valid Department of Health child care license.

— (16) "Over-the-Counter Medication" means medication that can be purchased without a written prescription from a health care provider. This includes herbal remedies and vitamin and mineral supplements.

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

— (18) "Person" means an individual or a business entity.

— (19) "Physical Abuse" means causing nonaccidental physical harm to a child.

— (20) "Play Equipment Platform" means a flat surface on a piece of stationary play equipment intended for more than one user to stand on, and upon which the users can move freely.

— (21) "Preschooler" means a child aged 2 through 4, and 5-year olds who have not yet started kindergarten.

\_\_\_\_\_ (22) "Protective Barrier" means an enclosing structure such as bars, lattice, or a solid panel, around an elevated play equipment platform that is intended to prevent a child from either accidentally or deliberately passing through the barrier.

\_\_\_\_\_ (23) "Protective cushioning" means cushioning material that has been tested to and meets American Society for Testing and Materials Specification F 1292, such as unitary surfaces, wood chips, engineered wood fiber, and shredded rubber mulch. Protective cushioning may also include pea gravel or sand as allowed by the Consumer Product Safety Commission (CPSC).

\_\_\_\_\_ (24) "Provider" means the licensee or a staff member to whom the licensee has delegated a duty under this rule.

\_\_\_\_\_ (25) "Sanitize" means to remove soil and small amounts of certain bacteria from a surface or object with a chemical agent.

\_\_\_\_\_ (26) "School Age" means kindergarten and older age children.

\_\_\_\_\_ (27) "Sexual Abuse" means abuse as defined in Utah Code, Section 76-5-404.1.(1)(2).

\_\_\_\_\_ (28) "Sexually Explicit Material" means any depiction of sexually explicit conduct, as defined in Utah Code, Section 76-5a-2(8).

\_\_\_\_\_ (29) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, or play pen.

\_\_\_\_\_ (30) "Stationary Play Equipment" means equipment such as a climber, a slide, a swing, a merry-go-round, or a spring rocker that is meant to stay in one location when children use it. Stationary play equipment does not include:

\_\_\_\_\_ (a) a sandbox;

\_\_\_\_\_ (b) a stationary circular trieyele;

\_\_\_\_\_ (c) a sensory table; or

\_\_\_\_\_ (d) a playhouse, if the playhouse has no play equipment, such as a slide, swing, ladder, or climber attached to it.

\_\_\_\_\_ (31) "Toddler" means a child aged 12 months but less than 24 months.

\_\_\_\_\_ (32) "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.

\_\_\_\_\_ (33) "Volunteer" means a person who provides care to a child but does not receive direct or indirect compensation for doing so.

#### **R430-100-3. License Required.**

\_\_\_\_\_ A person or persons must be licensed as a child care center under this rule if:

\_\_\_\_\_ (1) they provide care in the absence of the child's parent;

\_\_\_\_\_ (2) they provide care in a place other than the provider's home or the child's home;

\_\_\_\_\_ (3) they provide care for five or more children, for four or more hours per day;

\_\_\_\_\_ (4) they provide care for each individual child for less than 24 hours per day;

\_\_\_\_\_ (5) the program is open to children on an ongoing basis for four or more weeks in a year; and

\_\_\_\_\_ (6) they provide care for direct or indirect compensation.

#### **R430-100-4. Facility.**

\_\_\_\_\_ (1) The licensee shall ensure that any building or playground structure constructed prior to 1978 which has peeling, flaking, chalking, or failing paint is tested for lead based paint. If lead based paint is found, the licensee shall contact the local health

department and follow all required procedures for the remediation of the lead based paint.

\_\_\_\_\_ (2) For preschoolers and toddlers who are toilet trained, there shall be one working toilet and one working sink for every fifteen children in the center, excluding diapered children. For school age children, there shall be one working toilet and one working sink for every 25 children in the center.

\_\_\_\_\_ (3) School age children shall have privacy when using the bathroom.

\_\_\_\_\_ (4) For buildings constructed after 1 July 1997 there shall be a working hand washing sink in each classroom.

\_\_\_\_\_ (5) Each area where infants or toddlers are cared for shall meet one of the following criteria:

\_\_\_\_\_ (a) There shall be two working sinks in the room. One sink shall be used exclusively for the preparation of food and bottles and hand washing prior to food preparation, and the other sink shall be used exclusively for hand washing after diapering and non-food activities.

\_\_\_\_\_ (b) There shall be one working sink in the room which is used exclusively for hand washing, and all bottle and food preparation shall be done in the kitchen and brought to the infant and toddler area by a non-diapering staff member.

\_\_\_\_\_ (6) Infant and toddler areas shall not be used as access to other areas or rooms.

\_\_\_\_\_ (7) All rooms and occupied areas in the building shall be ventilated by windows that open and have screens or by mechanical ventilation.

\_\_\_\_\_ (8) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.

\_\_\_\_\_ (9) The provider shall maintain adequate light intensity for the safety of children and the type of activity being conducted by keeping lighting equipment in good working condition.

\_\_\_\_\_ (10) Windows and glass doors within 36 inches from the floor or ground shall be made of safety glass, or have a protective guard.

\_\_\_\_\_ (11) There shall be at least 35 square feet of indoor space for each child, including the licensee's and employees' children who are not counted in the caregiver to child ratios.

\_\_\_\_\_ (12) Indoor space per child may include floor space used for furniture, fixtures, or equipment if the furniture, fixture, or equipment is used:

\_\_\_\_\_ (a) by children;

\_\_\_\_\_ (b) for the care of children; or

\_\_\_\_\_ (c) to store classroom materials.

\_\_\_\_\_ (13) Bathrooms, closets, staff lockers, hallways, corridors, lobbies, kitchens, or staff offices are not included when calculating indoor space for children's use.

#### **R430-100-5. Cleaning and Maintenance.**

\_\_\_\_\_ (1) The provider shall maintain a clean and sanitary environment.

\_\_\_\_\_ (2) The provider shall clean and sanitize bathroom surfaces daily, including toilets, sinks, faucets, and counters.

\_\_\_\_\_ (3) The provider shall take safe and effective measures to prevent and eliminate the presence of insects, rodents, and other vermin.

\_\_\_\_\_ (4) The provider shall maintain ceilings, walls, floor coverings, draperies, blinds, furniture, fixtures, and equipment in good repair to prevent injury to children.

(5) The provider shall maintain entrances, exits, steps and outside walkways in a safe condition, and free of ice, snow, and other hazards.

#### **R430-100-6. Outdoor Environment.**

(1) There shall be an outdoor play area for children that is safely accessible to children.

(2) The outdoor play area shall have at least 40 square feet of space for each child using the playground at the same time as other children.

(3) The outdoor play area shall accommodate at least 33 percent of the licensed capacity at one time or shall be at least 1600 square feet.

(4) The outdoor play area shall be enclosed within a 4 foot high fence or wall, or a solid natural barrier that is at least 4 feet high. When children play outdoors, they must play in the enclosed play area except during off-site activities described in Section R430-100-20(5).

(5) There shall be no gaps in fences greater than 5 inches at any point, nor shall gaps between the bottom of the fence and the ground be more than 5 inches.

(6) There shall be no openings greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter anywhere in the outdoor play area where children's feet cannot touch the ground.

(7) When in use, the outdoor play area shall be free of animal excrement, harmful plants, objects, or substances, and standing water.

(8) The outdoor play area shall have a shaded area to protect children from excessive sun and heat.

(9) An outdoor source of drinking water, such as a drinking fountain, individually labeled water bottles, or a pitcher of water and individual cups that are taken outside, shall be available to children whenever the outside temperature is 75 degrees or higher.

(10) All outdoor play equipment and areas shall comply with the following safety standards:

(a) All stationary play equipment used by infants and toddlers shall meet the following requirements:

(i) There shall be no designated play surface that exceeds 3 feet in height.

(ii) If the height of a designated play surface or climbing bar on a piece of equipment, excluding swings, is greater than 18 inches, it shall have use zones that meet the following criteria:

(A) The use zone shall extend a minimum of 3 feet in all directions from the perimeter of each piece of equipment.

(B) Use zones may overlap if two pieces of equipment are positioned adjacent to one another, with a minimum of 3 feet between the perimeters of the two pieces of equipment.

(C) The use zone in front of a slide may not overlap the use zone of any other piece of equipment.

(iii) The use zone in the front and rear of all swings shall extend a minimum distance of twice the height from the swing seat to the pivot point of the swing, and shall not overlap the use zone of any other piece of equipment.

(iv) The use zone for the sides of a single-axis swing shall extend a minimum of 3 feet from the perimeter of the structure, and may overlap the use zone of a separate adjacent piece of equipment.

(v) The use zone of a multi-axis swing shall extend a minimum distance of 3 feet plus the length of the suspending members, and shall never overlap the use zone of another piece of equipment.

(vi) The use zone for merry-go-rounds shall never overlap the use zone of another piece of equipment.

(vii) The use zone for spring rockers shall extend a minimum of 3 feet from the at-rest perimeter of the equipment.

(viii) Swings shall have enclosed seats.

(b) All stationary play equipment used by preschoolers or school age children shall meet the following requirements for use zones:

(i) If the height of a designated play surface or climbing bar on a piece of equipment, excluding swings, is greater than 20 inches, it shall have use zones that meet the following criteria:

(A) The use zone shall extend a minimum of 6 feet in all directions from the perimeter of each piece of equipment.

(B) The use zones of two pieces of equipment that are positioned adjacent to one another may overlap if the designated play surfaces of each structure are no more than 30 inches above the protective surfacing underneath the equipment. In such cases, there shall be a minimum of 6 feet between the adjacent pieces of equipment.

(C) There shall be a minimum use zone of 9 feet between adjacent pieces of equipment if the designated play surface of one or both pieces of equipment is more than 30 inches above the protective surfacing underneath the equipment.

(ii) The use zone in the front and rear of a single-axis swing shall extend a minimum distance of twice the height of the pivot point of the swing, and may not overlap the use zone of any other piece of equipment.

(iii) The use zone for the sides of a single-axis swing shall extend a minimum of 6 feet from the perimeter of the structure, and may overlap the use zone of a separate piece of equipment.

(iv) The use zone of a multi-axis swing shall extend a minimum distance of 6 feet plus the length of the suspending members, and shall never overlap the use zone of another piece of equipment.

(v) The use zone for merry-go-rounds shall never overlap the use zone of another piece of equipment.

(vi) The use zone for spring rockers shall extend a minimum of 6 feet from the at-rest perimeter of the equipment.

(e) Two-year-olds may play on infant and toddler play equipment.

(d) Protective cushioning is required in all use zones.

(e) If sand, gravel, or shredded tires are used as protective cushioning, the depth of the material shall meet the CPSC guidelines in Table 1. The provider shall ensure that the material is periodically checked for compaction, and if compacted, shall loosen the material to the depth listed in Table 1. If the material cannot be loosened due to extreme weather conditions, the provider shall not allow children to play on the equipment until the material can be loosened to the required depth.

TABLE 1

Depths of Protective Cushioning Required For Sand, Gravel, and Shredded Tires

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Fine Sand		Coarse Sand		Gravel		Shredded Tires	
	Fine	Coarse	Fine	Medium	Medium	Shredded		
4' high or less	6"	6"	6"	6"	6"	6"	6"	6"
Over 4' up to 5'	6"	6"	6"	6"	6"	6"	6"	6"
Over 5' up to 6'	12"	12"	6"	12"	6"	12"	6"	6"
Over 6' up to 7'	12"	not allowed	9"	not allowed	9"	not allowed	6"	6"
Over 7' up to 8'	12"	not allowed	12"	not allowed	12"	not allowed	6"	6"
Over 8' up to 9'	12"	not allowed	12"	not allowed	12"	not allowed	6"	6"
Over 9' up to 10'	not allowed	not allowed	12"	not allowed	12"	not allowed	6"	6"
Over 10' up to 11'	not allowed	not allowed	not allowed	not allowed	not allowed	not allowed	6"	6"
Over 11' up to 12'	not allowed	not allowed	not allowed	not allowed	not allowed	not allowed	6"	6"

(f) If shredded wood products are used as protective cushioning, the depth of the shredded wood shall meet the CPSC guidelines in Table 2.

TABLE 2

Depths of Protective Cushioning Required for Shredded Wood Products

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Engineered Wood		Double Shredded	
	Wood Fibers	Chips	Bark	Mulch
4' high or less	6"	6"	6"	6"
Over 4' up to 5'	6"	6"	6"	6"
Over 5' up to 6'	6"	6"	6"	6"
Over 6' up to 7'	9"	9"	9"	9"
Over 7' up to 8'	12"	9"	9"	9"
Over 8' up to 9'	12"	9"	9"	9"
Over 9' up to 10'	12"	9"	9"	9"
Over 10' up to 11'	12"	12"	12"	12"
Over 11'	12"	not allowed	not allowed	not allowed

(g) If wood products are used as cushioning material:

(i) the providers shall maintain documentation from the manufacturer verifying that the material meets ASTM Specification F 1292, which is adopted by reference; and

(ii) there shall be adequate drainage under the material.

(h) If a unitary cushioning material, such as rubber mats or poured rubber-like material is used as protective cushioning:

(i) the licensee shall ensure that the material meets the standard established in ASTM Specification F 1292. The provider shall maintain documentation from the manufacturer that the material meets these specifications:

(ii) the licensee shall ensure that the cushioning material is securely installed, so that it cannot become displaced when children jump, run, walk, land, or move on it, or be moved by children picking it up.

(i) Stationary play equipment that has a designated play surface less than the height specified in Table 3, and that does not have

moving parts children sit or stand on, may be placed on grass, but shall not be placed on concrete, asphalt, dirt, or any other hard surface.

TABLE 3

Heights of Designated Play Surfaces That May Be Placed on Grass

INFANTS and TODDLERS	PRESCHOOLERS	SCHOOL AGE
Less than 18"	Less than 20"	Less than 30"

(j) On stationary play equipment used by infants and toddlers, protective barriers shall be provided on all play equipment platforms that are over 18 inches above the ground. The bottom of the protective barrier shall be less than 3-1/2 inches above the surface of the platform, and there shall be no openings greater than 3-1/2 inches in the barrier. The top of the protective barrier shall be at least 24 inches above the surface of the platform.

(k) On stationary play equipment used by preschoolers, protective barriers shall be provided on all play equipment platforms that are over 30 inches above the ground. The bottom of the protective barrier shall be less than 3-1/2 inches above the surface of the platform, and there shall be no openings greater than 3-1/2 inches in the barrier. The top of the protective barrier shall be at least 29 inches above the surface of the platform.

(l) On stationary play equipment used by school age children, protective barriers shall be provided on all play equipment platforms that are over 48 inches above the ground. The bottom of the protective barrier shall be less than 3-1/2 inches above the surface of the platform, and there shall be no openings greater than 3-1/2 inches in the barrier. The top of the protective barrier shall be at least 38 inches above the surface of the platform.

(m) There shall be no openings greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter on any piece of stationary play equipment, or within or adjacent to the use zone of any piece of stationary play equipment.

(n) There shall be no strangulation hazards on, within the use zone of, or adjacent to the use zone of any piece of stationary play equipment.

(o) There shall be no crush, shearing, or sharp edge hazards on, within the use zone of, or adjacent to the use zone of any piece of stationary play equipment.

(p) There shall be no tripping hazards, such as concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.

(11) The provider shall maintain playgrounds and playground equipment to protect children's safety.

**R430-100-7. Personnel.**

(1) The center must have a director who is at least 21 years of age and who has one of the following educational credentials:

(a) an associates, bachelors, or graduate degree from an accredited college and successful completion of at least 12 semester credit hours of early childhood development courses;

(b) valid proof of a level 8, 9, or 10 Utah Early Childhood Career Ladder certification issued by the Utah Office of Child Care or the Utah Child Care Professional Development Institute;

(c) a currently valid national certification such as a Certified Childcare Professional (CCP) issued by the National Child Care Association, a Child Development Associate (CDA) issued by the

~~Council for Early Childhood Professional Recognition, or other credential that the licensee demonstrates as equivalent to the Department; or~~

~~(d) a currently valid National Administrator Credential (NAC) issued by the National Child Care Association, plus one of the following:~~

~~(i) valid proof of successful completion of 12 semester credit hours of early childhood development courses from an accredited college; or~~

~~(ii) valid proof of completion of the following six Utah Early Childhood Career Ladder courses offered through Child Care Resource and Referral: Child Development Ages and Stages, Learning in the Early Years, A Great Place for Kids, Strong and Smart, Learning to Get Along, and Advanced Child Development.~~

~~(e) Center directors who used only the National Administrator Credential (NAC) to meet the director qualifications prior to 1 July 2006 have until 30 June 2011 to obtain the required additional training in early childhood development.~~

~~(2) All caregivers shall be at least 18 years of age.~~

~~(3) All assistant caregivers shall be at least 16 years of age, and shall work under the immediate supervision of a caregiver who is at least 18 years of age.~~

~~(4) Assistant caregivers may be included in caregiver to child ratios, but shall not be left unsupervised with any child in care.~~

~~(5) Assistant caregivers shall meet all of the caregiver requirements under this rule, except the caregiver age requirement of 18 years.~~

~~(6) A volunteer may be included in the provider to child ratio only if the volunteer meets all of the caregiver requirements of this rule.~~

~~(7) Whenever there are more than 8 children at the center, there shall be at least two caregivers present who can demonstrate the English literacy skills needed to care for children and respond to emergencies. If there is only one caregiver present because there are 8 or fewer children at the center, that caregiver must be able to demonstrate the English literacy skills needed to care for children and respond to emergencies.~~

~~(8) Each new director, assistant director, caregiver, assistant caregiver, and volunteer shall receive orientation training prior to assuming caregiving duties. Orientation training shall be documented in the caregiver's file and shall include the following topics:~~

~~(a) job description and duties;~~

~~(b) the center's written policies and procedures;~~

~~(c) the center's emergency and disaster plan;~~

~~(d) the current child care licensing rules found in Sections R430-100-11 through 24;~~

~~(e) introduction and orientation to the children assigned to the caregiver;~~

~~(f) a review of the information in the health assessment for each child in their assigned group;~~

~~(g) procedure for releasing children to authorized individuals only;~~

~~(h) proper clean-up of body fluids;~~

~~(i) signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;~~

~~(j) obtaining assistance in emergencies, as specified in the center's emergency and disaster plan.~~

~~(k) If the center provides infant or toddler care, new caregiver orientation training topics shall also include:~~

~~(i) preventing shaken baby syndrome and coping with crying babies; and~~

~~(ii) preventing sudden infant death syndrome.~~

~~(9) The following individuals shall complete a minimum of 20 hours of child care training each year, based on the center's license date:~~

~~(a) the director;~~

~~(b) the assistant director, if the center has one;~~

~~(c) all caregivers;~~

~~(d) all substitutes who work an average of 10 hours a week or more, as averaged over any three-month period; and~~

~~(e) all volunteers that the provider includes in the provider to child ratio.~~

~~(10) Documentation of annual training shall be kept in each caregiver's file, and shall include the name of the training organization, the date, the training topic, and the total hours or minutes of training.~~

~~(11) Caregivers who begin employment partway through the license year shall complete a proportionate number of training hours based on the number of months worked prior to the center's relicensure date.~~

~~(12) Annual training hours shall include the following topics:~~

~~(a) the current child care licensing rules found in Sections R430-100-11 through 24;~~

~~(b) a review of the center's written policies and procedures and emergency and disaster plans, including any updates;~~

~~(c) signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation;~~

~~(d) principles of child growth and development, including development of the brain; and~~

~~(e) positive guidance.~~

~~(13) If the center provides infant or toddler care, annual training topics for the center director and all infant and toddler caregivers shall also include:~~

~~(a) preventing shaken baby syndrome and coping with crying babies; and~~

~~(b) preventing sudden infant death syndrome.~~

~~(14) A minimum of 10 hours of the required annual in-service training shall be face-to-face instruction.~~

**R430-100-8. Administration.**

~~(1) The licensee is responsible for all aspects of the operation and management of the center.~~

~~(2) The licensee shall comply with all federal, state, and local laws and rules pertaining to the operation of a child care center.~~

~~(3) The provider shall not engage in or allow conduct that is adverse to the public health, morals, welfare, and safety of the children in care.~~

~~(4) The provider shall take all reasonable measures to protect the safety of children in care. The licensee shall not engage in activity or allow conduct that unreasonably endangers children in care.~~

~~(5) Either the center director or a designee with authority to act on behalf of the center director shall be present at the facility whenever the center is open for care.~~

~~\_\_\_\_\_ (6) Director designees shall be at least 21 years of age, and shall have completed their orientation training.~~

~~\_\_\_\_\_ (7) The center director shall be on-site at the center for at least 20 hours per week during operating hours in order to fulfill the duties specified in this rule, and to ensure compliance with this rule.~~

~~\_\_\_\_\_ (8) The center director must have sufficient freedom from other responsibilities to manage the center and respond to emergencies.~~

~~\_\_\_\_\_ (9) There shall be a working telephone at the facility, and the center director shall inform a parent and the Department of any changes to the center's telephone number within 48 hours of the change.~~

~~\_\_\_\_\_ (10) The provider shall call the Department within 24 hours to report any fatality, hospitalization, emergency medical response, or injury that requires attention from a health care provider, unless an emergency medical transport was part of a child's medical treatment plan identified by the parent. The provider shall also mail or fax a written report to the Department within five days of the incident.~~

~~\_\_\_\_\_ (11) The duties and responsibilities of the center director include the following:~~

~~\_\_\_\_\_ (a) appoint one or more individuals who meet the background screening and training requirements of this rule to be a director designee, with authority to act on behalf of the center director in his or her absence;~~

~~\_\_\_\_\_ (b) train and supervise staff to:~~

~~\_\_\_\_\_ (i) ensure their compliance with this rule;~~

~~\_\_\_\_\_ (ii) ensure they meet the needs of the children in care as specified in this rule; and~~

~~\_\_\_\_\_ (iii) ensure that children are not subjected to emotional, physical, or sexual abuse while in care.~~

~~\_\_\_\_\_ (12) The provider shall establish and follow written policies and procedures for the health and safety of the children in care. The written policies and procedures shall address at least the following areas:~~

~~\_\_\_\_\_ (a) direct supervision and protection of children at all times, including when they are sleeping, using the bathroom, in a mixed-group activity, on the playground, and during off-site activities;~~

~~\_\_\_\_\_ (b) maintaining required caregiver to child ratios when the center has more than the expected number of children, or fewer than the scheduled number of caregivers;~~

~~\_\_\_\_\_ (c) procedures to account for each child's attendance and whereabouts;~~

~~\_\_\_\_\_ (d) procedures to ensure that the center releases children to authorized individuals only;~~

~~\_\_\_\_\_ (e) confidentiality and release of information;~~

~~\_\_\_\_\_ (f) the use of movies and video or computer games, including what industry ratings the center allows;~~

~~\_\_\_\_\_ (g) recognizing early signs of illness and determining when there is a need for exclusion from the center;~~

~~\_\_\_\_\_ (h) ensuring that food preparation and diapering/handwashing are not done in the same sink in infant and toddler areas;~~

~~\_\_\_\_\_ (i) discipline of children, including behavioral expectations of children and discipline methods used;~~

~~\_\_\_\_\_ (j) transportation to and from off-site activities, or to and from home, if the center offers these services; and~~

~~\_\_\_\_\_ (k) if the program offers transportation to or from school, policies addressing:~~

~~\_\_\_\_\_ (i) how long children will be unattended before and after school;~~

~~\_\_\_\_\_ (ii) what steps will be taken if children fail to meet the vehicle;~~

~~\_\_\_\_\_ (iii) how and when parents will be notified of delays or problems with transportation to and from school; and~~

~~\_\_\_\_\_ (iv) the use of size-appropriate safety restraints.~~

~~\_\_\_\_\_ (13) The provider shall ensure that the written policies and procedures are available for review by parents, staff, and the Department during business hours.~~

#### **R430-100-9. Records.**

~~\_\_\_\_\_ (1) The provider shall maintain the following general records on-site for review by the Department:~~

~~\_\_\_\_\_ (a) documentation of the previous 12 months of fire and disaster drills as specified in R430-10(11)(12)(13)(14);~~

~~\_\_\_\_\_ (b) current animal vaccination records as required in R430-100-22(3);~~

~~\_\_\_\_\_ (c) a six-week record of child attendance, including sign-in and sign-out records;~~

~~\_\_\_\_\_ (d) a current local health department inspection;~~

~~\_\_\_\_\_ (e) a current local fire department inspection;~~

~~\_\_\_\_\_ (f) if the licensee has been licensed for one year or longer, the most recent "Request for Annual Renewal of CBS/LIS Criminal History Information for Child Care" listing the licensee and all current providers, caregivers, volunteers, directors, owners, and members of the governing body; and~~

~~\_\_\_\_\_ (g) if the licensee has been licensed for one year or longer, the most recent criminal background "Disclosure and Consent Statement" listing the licensee and all current providers, caregivers, volunteers, directors, owners, and members of the governing body.~~

~~\_\_\_\_\_ (2) The provider shall maintain the following records for each currently enrolled child on-site for review by the Department:~~

~~\_\_\_\_\_ (a) an admission form containing the following information for each child:~~

~~\_\_\_\_\_ (i) name;~~

~~\_\_\_\_\_ (ii) date of birth;~~

~~\_\_\_\_\_ (iii) the parent's name, address, and phone number, including a daytime phone number;~~

~~\_\_\_\_\_ (iv) the names of people authorized by the parent to pick up the child;~~

~~\_\_\_\_\_ (v) the name, address and phone number of a person to be contacted in the event of an emergency if the provider is unable to contact the parent;~~

~~\_\_\_\_\_ (vi) if available, the name, address, and phone number of an out of area/state emergency contact person for the child; and~~

~~\_\_\_\_\_ (vii) current emergency medical treatment and emergency medical transportation releases with the parent's signature;~~

~~\_\_\_\_\_ (b) a current annual health assessment form as required in R430-100-14(5);~~

~~\_\_\_\_\_ (c) for each infant, toddler, and preschooler, current immunization records or documentation of a legally valid exemption, as specified in R430-100-14(4);~~

~~\_\_\_\_\_ (d) a transportation permission form, if the center provides transportation services;~~

~~\_\_\_\_\_ (e) a six-week record of medication permission forms, and a six-week record of medications actually administered; and~~

~~\_\_\_\_\_ (f) a six-week record of incident, accident, and injury reports; and~~

- \_\_\_\_\_ (g) a six week record of eating, sleeping, and diaper changes as required in R430-100-23(12) R430-100-24(15);
- \_\_\_\_\_ (3) The provider shall ensure that information in children's files is not released without written parental permission;
- \_\_\_\_\_ (4) The provider shall maintain the following records for each staff member on-site for review by the Department:
  - \_\_\_\_\_ (a) date of initial employment;
  - \_\_\_\_\_ (b) approved initial "CBS/LIS Consent and Release of Liability for Child Care" form;
  - \_\_\_\_\_ (c) a six week record of days worked, and the times worked each day;
  - \_\_\_\_\_ (d) orientation training documentation for caregivers, and for volunteers who work at the center at least once each month;
  - \_\_\_\_\_ (e) annual training documentation for all providers and substitutes who work an average of 10 hours or more a week, as averaged over any three month period; and
  - \_\_\_\_\_ (f) current first aid and CPR certification, if applicable as required in R430-100-10(2), R430-100-20(5)(d), and R430-100-21(2).

**R430-100-10. Emergency Preparedness.**

- \_\_\_\_\_ (1) The provider shall post the center's street address and emergency numbers, including ambulance, fire, police, and poison control, near each telephone in the center.
- \_\_\_\_\_ (2) At least one person at the facility at all times when children are in care shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification. Equivalent CPR certification must include hands-on testing.
  - \_\_\_\_\_ (3) The licensee shall maintain first aid supplies in the center, including at least antiseptic, band-aids, and tweezers.
  - \_\_\_\_\_ (4) The provider shall have a written emergency and disaster plan which shall include at least the following:
    - \_\_\_\_\_ (a) procedures for responding to medical emergencies and serious injuries that require treatment by a health care provider;
    - \_\_\_\_\_ (b) procedures for responding to fire, earthquake, flood, power failure, and water failure;
    - \_\_\_\_\_ (c) the location of and procedure for emergency shut off of gas, electricity, and water;
    - \_\_\_\_\_ (d) an emergency relocation site where children may be housed if the center is uninhabitable;
    - \_\_\_\_\_ (e) a means of posting the relocation site address in a conspicuous location that can be seen even if the center is closed;
    - \_\_\_\_\_ (f) the transportation route and means of getting staff and children to the emergency relocation site;
    - \_\_\_\_\_ (g) a means of accounting for each child's presence in route to and at the relocation site;
    - \_\_\_\_\_ (h) a means of accessing children's emergency contact information and emergency releases; including contact information for an out of area/state emergency contact person for the child, if available;
    - \_\_\_\_\_ (i) provisions for emergency supplies, including at least food, water, a first aid kit, diapers if the center cares for diapered children, and a cell phone;
    - \_\_\_\_\_ (j) procedures for ensuring adequate supervision of children during emergency situations, including while at the center's emergency relocation site; and
    - \_\_\_\_\_ (k) staff assignments for specific tasks during an emergency.
- \_\_\_\_\_ (5) The provider shall ensure that the emergency and disaster plan is followed in the event of an emergency.

- \_\_\_\_\_ (6) The provider shall review the emergency and disaster plan annually, and update it as needed. The provider shall note the date of reviews and updates to the plan on the plan.
- \_\_\_\_\_ (7) The emergency and disaster plan shall be available for immediate review by staff, parents, and the Department during business hours.
- \_\_\_\_\_ (8) The provider shall conduct fire evacuation drills monthly. Drills shall include complete exit of all children and staff from the building.
- \_\_\_\_\_ (9) The provider shall document all fire drills, including:
  - \_\_\_\_\_ (a) the date and time of the drill;
  - \_\_\_\_\_ (b) the number of children participating;
  - \_\_\_\_\_ (c) the name of the person supervising the drill;
  - \_\_\_\_\_ (d) the total time to complete the evacuation; and
  - \_\_\_\_\_ (e) any problems encountered.
- \_\_\_\_\_ (10) The provider shall conduct drills for disasters other than fires at least once every six months.
- \_\_\_\_\_ (11) The provider shall document all disaster drills, including:
  - \_\_\_\_\_ (a) the type of disaster, such as earthquake, flood, prolonged power outage, tornado;
  - \_\_\_\_\_ (b) the date and time of the drill;
  - \_\_\_\_\_ (c) the number of children participating;
  - \_\_\_\_\_ (d) the name of the person supervising the drill; and
  - \_\_\_\_\_ (e) any problems encountered.
- \_\_\_\_\_ (12) The center shall vary the days and times on which fire and other disaster drills are held.

**R430-100-11. Supervision and Ratios.**

- \_\_\_\_\_ (1) The provider shall ensure that caregivers provide and maintain direct supervision of all children at all times.
- \_\_\_\_\_ (2) Caregivers shall actively supervise children on the playground to minimize the risk of injury to a child.
- \_\_\_\_\_ (3) There shall be at least two caregivers with the children at all times when there are more than 8 children or more than 2 infants present.
- \_\_\_\_\_ (4) The licensee shall maintain the minimum caregiver to child ratios and group sizes in Table 5 for single age groups of children.

TABLE 4

Minimum Caregiver to Child Ratios and Group Sizes

Ages of Children	# of Caregivers	# of Children	Maximum Group Size
birth - 23 months	1	4	8
2 years old	1	7	14
3 years old	1	12	24
4 years old	1	15	30
5 years old and school age	1	20	40

- \_\_\_\_\_ (5) A center constructed prior to 1 January 2004 which has been licensed and operated as a child care center continuously since 1 January 2004 is exempt from maximum group size requirements, if the required caregiver to child ratios are maintained, and the required square footage for each classroom is maintained.
- \_\_\_\_\_ (6) Mixed age groups shall meet the ratios and group sizes specified in Tables 5-15.

TABLE 5

Two-year-olds and Three-year-olds

# Caregivers Required	Age	# Children Present
1	2	1-6
	3	1-9
	Total children: up to 10	
2	2	1-13
	3	1-19
	Total children: up to 20	

TABLE 10

Four-year-olds and Five-twelve Year-olds

# Caregivers Required	Age	# Children Present
1	4	1-14
	5-12	1-17
	Total children: up to 18	
2	4	1-29
	5-12	1-35
	Total children: up to 36	

TABLE 6

Two-year-olds and Four-year-olds

# Caregivers Required	Age	# Children Present
1	2	1-6
	4	1-10
	Total children: up to 11	
2	2	1-13
	4	1-21
	Total children: up to 22	

TABLE 11

Two-year-olds, Three-year-olds, and Four-year-olds

# Caregivers Required	Age	# Children Present
1	2	1-6
	3	1-9
	4	1-9
	Total children: up to 11	
2	2	1-13
	3	1-20
	4	1-20
	Total children: up to 22	

TABLE 7

Two-year-olds and Five-twelve Year-olds

# Caregivers Required	Age	# Children Present
1	2	1-6
	5-12	1-13
	Total children: up to 14	
2	2	1-13
	5-12	1-27
	Total children: up to 28	

TABLE 12

Two-year-olds, Three-year-olds, and Five-twelve Year Olds

# Caregivers Required	Age	# Children Present
1	2	1-6
	3	1-11
	5-12	1-11
	Total children: up to 13	
2	2	1-13
	3	1-24
	5-12	1-24
	Total children: up to 26	

TABLE 8

Three-year-olds and Four-year-olds

# Caregivers Required	Age	# Children Present
1	3	1-11
	4	1-13
	Total children: up to 14	
2	3	1-23
	4	1-27
	Total children: up to 28	

TABLE 13

Two-year-olds, Four-year-olds, and Five-twelve Year-olds

# Caregivers Required	Age	# Children Present
1	2	1-6
	4	1-12
	5-12	1-12
	Total: up to 14	
2	2	1-13
	4	1-26
	5-12	1-26
	Total children: up to 28	

TABLE 9

Three-year-olds and Five-twelve Year-olds

# Caregivers Required	Age	# Children Present
1	3	1-11
	5-12	1-15
	Total children: up to 16	
2	3	1-23
	5-12	1-31
	Total children: up to 32	

TABLE 14

Three-year-olds, Four-year-olds, and Five-twelve Year-olds

# Caregivers Required	Age	# Children Present
1	3	1-11
	4	1-14
	5-12	1-14
	Total: up to 16	
2	3	1-23
	4	1-30
	5-12	1-30
	Total children: up to 32	



TABLE 15

Two-year-olds, Three-year-olds, Four-year-olds,  
and Five-11-year-olds

# Caregivers Required	Age	# Children Present
1	2	1-6
	3	1-11
	4	1-11
	5-12	1-11
	Total children: up to 14	
2	2	1-13
	3	1-25
	4	1-25
	5-12	1-25
	Total children: up to 28	

(7) Infants and toddlers may be included in mixed age groups only when 8 or fewer children are present in the group.

(8) If more than 2 infants or toddlers are included in a mixed age group, there shall be at least 2 caregivers with the group.

(9) During nap time the caregiver to child ratio may double for not more than two hours for children age 18 months and older, if the children are in a restful or non-active state, and if a means of communication is maintained with another caregiver who is on-site. The caregiver supervising the napping children must be able to contact the other on-site caregiver without having to leave children unattended in the napping area.

(10) The children of the licensee or any employee, age four or older, are not counted in the caregiver to child ratios when the parent of the child is working at the center, but are counted in the maximum group size.

**R430-100-12. Injury Prevention.**

(1) The provider shall ensure that the building, grounds, toys, and equipment are maintained and used in a safe manner to prevent injury to children.

(2) The provider shall ensure that walkways are free of tripping hazards such as unsecured flooring or cords.

(3) Areas accessible to children shall be free of unstable heavy equipment, furniture, or other items that children could pull down on themselves.

(4) The following items shall be inaccessible to children:

(a) firearms, ammunition, and other weapons on the premises. Firearms shall be stored separately from ammunition, in a cabinet or area that is locked with a key or combination lock, unless the use is in accordance with the Utah Concealed Weapons Act, or as otherwise allowed by law;

(b) tobacco, alcohol, illegal substances, and sexually explicit material;

(c) when in use, portable space heaters, fireplaces, and wood burning stoves;

(d) toxic or hazardous chemicals such as cleaners, insecticides, lawn products, and flammable materials;

(e) poisonous plants;

(f) matches or cigarette lighters;

(g) open flames;

(h) sharp objects, edges, corners, or points which could cut or puncture skin;

(i) for children age 4 and under, ropes, cords, wires and chains long enough to encircle a child's neck, such as those found on window blinds or drapery cords;

(j) for children age 4 and under, plastic bags large enough for a child's head to fit inside, latex gloves, and balloons; and

(k) for children age 2 and under, toys or other items with a diameter of less than 1-1/4 inch and a length of less than 2-1/4 inches; or objects with removable parts that have a diameter of less than 1-1/4 inch and a length of less than 2-1/4 inches.

(5) The provider shall store all toxic or hazardous chemicals in a container labeled with its contents.

(6) Electrical outlets and surge protectors accessible to children age four and younger shall have protective caps or safety devices when not in use.

(7) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.

(8) High chairs shall have T-shaped safety straps or devices that are used whenever a child is in the chair.

(9) Indoor stationary gross motor play equipment, such as slides and climbers, accessible to children under age 3 shall not have a designated play surface that exceeds 3 feet in height.

(a) If such equipment has an elevated designated play surface less than 18 inches in height, it shall not be placed on a hard surface, such as wood, tile, linoleum, or concrete, and shall have a three foot use zone.

(b) If such equipment has an elevated designated play surface that is 18 inches to 3 feet in height, it shall be surrounded by mats at least 2 inches thick, or cushioning that meets ASTM Standard F1292, in a three foot use zone.

(10) Indoor stationary gross motor play equipment, such as slides and climbers, accessible to children age 3 and older shall not have a designated play surface that exceeds 5-1/2 feet in height.

(a) If such equipment has an elevated designated play surface less than 3 feet in height, it shall be surrounded by protective cushioning material, such as mats at least 1 inch thick, in a six foot use zone.

(b) If such equipment has an elevated designated play surface that is 3 feet to 5-1/2 feet in height, it shall be surrounded by cushioning that meets ASTM Standard F1292, in a six foot use zone.

(11) There shall be no trampolines on the premises that are accessible to any child in care.

(12) If there is a swimming pool on the premises that is not emptied after each use:

(a) the provider shall ensure that the pool is enclosed within a fence or other solid barrier at least six feet high that is kept locked whenever the pool is not in use;

(b) the provider shall maintain the pool in a safe manner;

(c) the provider shall meet all applicable state and local laws and ordinances related to the operation of a swimming pool; and

(d) If the pool is over four feet deep, there shall be a Red Cross certified life guard on duty, or a lifeguard certified by another agency that the licensee can demonstrate to the Department to be equivalent to Red Cross certification, any time children have access to the pool.

(13) If wading pools are used:

(a) a caregiver must be at the pool supervising children whenever there is water in the pool;

(b) diapered children must wear swim diapers and rubber pants while in the pool; and

(c) the pool shall be emptied and sanitized after each use by a separate group of children.

**R430-100-13. Parent Notification and Child Security.**

(1) The provider shall post a copy of the Department's child care guide in the center for parents' review during business hours.

(2) Parents shall have access to the center and their child's classroom at all times their child is in care.

(3) The provider shall ensure the following procedures are followed when children arrive at the center or leave the center:

(a) Each child must be signed in and out of the center, including the date and time the child arrives or leaves.

(b) Persons signing children into the center shall use identifiers, such as a signature, initials, or electronic code.

(c) Persons signing children out of the center shall use identifiers, such as a signature, initials, or electronic code, and shall have photo identification if they are unknown to the provider.

(d) Only parents or persons with written authorization from the parent may take any child from the center. In an emergency, the provider may accept verbal authorization if the provider can confirm the identity of the person giving the verbal authorization and the identity of the person picking up the child.

(e) School age children may sign themselves in and out of the center with written permission from their parent.

(4) The provider shall give parents a written report of every incident, accident, or injury involving their child on the day of occurrence. The caregivers involved, the center director, and the person picking the child up shall sign the report on the day of occurrence. If a school age child signs himself or herself out of the center, a copy of the report shall be mailed to the parent on the day following the occurrence.

(5) If a child is injured and the injury appears serious but not life threatening, the provider shall contact the parent immediately, in addition to giving the parent a written report of the injury.

(6) In the case of a life threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb, the provider shall contact emergency personnel immediately, before contacting the parent. If the parent cannot be reached after emergency personnel have been contacted, the provider shall attempt to contact the child's emergency contact person.

**R430-100-14. Child Health.**

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

(2) All staff shall follow the reporting requirements for witnessing or suspicion of abuse, neglect, and exploitation found in Utah Code, Section 62A-4a-403 and 62A-4a-411.

(3) The use of tobacco, alcohol, illegal substances, or sexually explicit material on the premises or in center vehicles is prohibited any time that children are in care.

(4) The provider shall not admit any infant, toddler, or preschooler to the center without documentation of:

(a) proof of current immunizations, as required by Utah law;

(b) proof of receiving at least one dose of each required vaccine prior to enrollment, and a written schedule to receive all subsequent required vaccinations; or

(c) written documentation of an immunization exemption due to personal, medical or religious reasons.

(5) The provider shall not admit any child to the center without a signed health assessment completed by the parent which shall include:

(a) allergies;

(b) food sensitivities;

(c) acute and chronic medical conditions;

(d) instructions for special or non-routine daily health care;

(e) current medications; and,

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

(6) The provider shall ensure that each child's health assessment is reviewed, updated, and signed or initialed by the parent at least annually.

**R430-100-15. Child Nutrition.**

(1) If food service is provided:

(a) The provider shall ensure that the center's meal service complies with local health department food service regulations.

(b) Foods served by centers not currently participating and in good standing with the USDA Child and Adult Care Food Program (CACFP) shall comply with the nutritional requirements of the CACFP. The licensee shall either use standard Department-approved menus, menus provided by the CACFP, or menus approved by a registered dietician. Dietitian approval shall be noted and dated on the menus, and shall be current within the past 5 years.

(c) Centers not currently participating and in good standing with the CACFP shall keep a six week record of foods served at each meal or snack.

(d) The provider shall post the current week's menu for parent review.

(2) The provider shall offer meals or snacks at least once every three hours.

(3) The provider shall serve children's food on dishes, napkins, or sanitary high chair trays, except for individual serving size items, such as crackers, if they are placed directly in the children's hands. The provider shall not place food on a bare table.

(4) The provider shall ensure that caregivers who serve food to children are aware of food allergies and sensitivities for the children in their assigned group, and that children are not served the food or drink they have an allergy or sensitivity to.

(5) The provider shall ensure that food and drink brought in by parents for an individual child's use is labeled with the child's name, and refrigerated if needed, and shall ensure that the food or drink is only consumed by that child.

**R430-100-16. Infection Control.**

(1) Staff shall wash their hands thoroughly with liquid soap and warm running water at the following times:

(a) before handling or preparing food or bottles;

(b) before and after eating meals and snacks or feeding children;

(c) before and after diapering a child;

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

(e) before administering medication;

(f) after coming into contact with body fluids, including breast milk;

(g) after playing with or handling animals;

(h) when coming in from outdoors; and

(i) after cleaning or taking out garbage.

(2) The provider shall ensure that children wash their hands thoroughly with liquid soap and warm running water at the following times:

(a) before and after eating meals and snacks;

(b) after using the toilet;

- ~~\_\_\_\_\_ (c) after coming into contact with body fluids;~~
- ~~\_\_\_\_\_ (d) after playing with animals; and~~
- ~~\_\_\_\_\_ (e) when coming in from outdoors.~~
- ~~\_\_\_\_\_ (3) Only single use towels from a covered dispenser or an electric hand drying device may be used to dry hands.~~
- ~~\_\_\_\_\_ (4) The provider shall ensure that toilet paper is accessible to children, and that it is kept on a dispenser.~~
- ~~\_\_\_\_\_ (5) The provider shall post handwashing procedures that are readily visible from each handwashing sink, and they shall be followed.~~
- ~~\_\_\_\_\_ (6) Caregivers shall teach children proper hand washing techniques and shall oversee hand washing whenever possible.~~
- ~~\_\_\_\_\_ (7) Personal hygiene items such as toothbrushes, or combs and hair accessories that are not sanitized between each use, shall not be shared by children or used by staff on more than one child, and shall be stored so that they do not touch each other.~~
- ~~\_\_\_\_\_ (8) The provider shall clean and sanitize all washable toys and materials weekly, or more often if necessary.~~
- ~~\_\_\_\_\_ (9) Stuffed animals, cloth dolls, and dress-up clothes must be machine washable. Pillows must be machine washable, or have removable covers that are machine washable. The provider shall wash stuffed animals, cloth dolls, dress-up clothes, and pillows or covers weekly.~~
- ~~\_\_\_\_\_ (10) If water play tables or tubs are used, they shall be washed and sanitized daily, and children shall wash their hands prior to engaging in the activity.~~
- ~~\_\_\_\_\_ (11) Persons with contagious TB shall not work or volunteer in the center.~~
- ~~\_\_\_\_\_ (12) Children's clothing shall be changed promptly if they have a toileting accident.~~
- ~~\_\_\_\_\_ (13) Children's clothing which is wet or soiled from body fluids:
 
  - ~~\_\_\_\_\_ (a) shall not be rinsed or washed at the center; and~~
  - ~~\_\_\_\_\_ (b) shall be placed in a leakproof container, labeled with the child's name, and returned to the parent.~~~~
- ~~\_\_\_\_\_ (14) If the center uses a potty chair, the provider shall clean and sanitize the chair after each use.~~
- ~~\_\_\_\_\_ (15) Staff who prepare food in the kitchen shall not change diapers or assist in toileting children.~~
- ~~\_\_\_\_\_ (16) The center shall have a portable body fluid clean up kit.
 
  - ~~\_\_\_\_\_ (a) All staff shall know the location of the kit and how to use it.~~
  - ~~\_\_\_\_\_ (b) The provider shall use the kit to clean up spills of body fluids.~~
  - ~~\_\_\_\_\_ (c) The provider shall restock the kit as needed.~~~~
- ~~\_\_\_\_\_ (17) The center shall not care for children who are ill with an infectious disease, except when a child shows signs of illness after arriving at the center.~~
- ~~\_\_\_\_\_ (18) The provider shall separate children who develop signs of an infectious disease after arriving at the center from the other children in a safe, supervised location.~~
- ~~\_\_\_\_\_ (19) The provider shall contact the parents of children who are ill with an infectious disease and ask them to immediately pick up their child. If the provider cannot reach the parent, the provider shall contact the individuals listed as emergency contacts for the child and ask them to pick up the child.~~
- ~~\_\_\_\_\_ (20) The provider shall notify the local health department, on the day of discovery, of any reportable infectious diseases among~~

children or caregivers, or any sudden or extraordinary occurrence of a serious or unusual illness, as required by the local health department.

~~\_\_\_\_\_ (21) The provider shall post a parent notice at the center when any staff or child has an infectious disease or parasite.~~

~~\_\_\_\_\_ (a) The provider shall post the notice in a conspicuous location where it can be seen by all parents.~~

~~\_\_\_\_\_ (b) The provider shall post and date the notice the same day the disease or parasite is discovered, and the notice shall remain posted for at least 5 days.~~

#### **~~R430-100-17. Medications.~~**

~~\_\_\_\_\_ (1) If medications are given, they shall be administered to children only by a provider trained in the administration of medications as specified in this rule.~~

~~\_\_\_\_\_ (2) All over the counter medications provided by parents and all prescription medications shall:~~

~~\_\_\_\_\_ (a) be labeled with the child's full name;~~

~~\_\_\_\_\_ (b) be kept in the original or pharmacy container;~~

~~\_\_\_\_\_ (c) have the original label; and,~~

~~\_\_\_\_\_ (d) have child safety caps.~~

~~\_\_\_\_\_ (3) All non-refrigerated medications shall be inaccessible to children and stored in a container or area that is locked, such as a locked room, cupboard, drawer, or a lockbox. The provider shall store all refrigerated medications in a leakproof container.~~

~~\_\_\_\_\_ (4) The provider shall have a written medication permission form completed and signed by the parent prior to administering any over the counter or prescription medication to a child. The permission form must include:~~

~~\_\_\_\_\_ (a) the name of the child;~~

~~\_\_\_\_\_ (b) the name of the medication;~~

~~\_\_\_\_\_ (c) written instructions for administration; including:~~

~~\_\_\_\_\_ (i) the dosage;~~

~~\_\_\_\_\_ (ii) the method of administration;~~

~~\_\_\_\_\_ (iii) the times and dates to be administered; and~~

~~\_\_\_\_\_ (iv) the disease or condition being treated; and~~

~~\_\_\_\_\_ (d) the parent signature and the date signed.~~

~~\_\_\_\_\_ (5) If the provider keeps over the counter medication at the center that is not brought in by a parent for their child's use, the medication shall not be administered to any child without prior parental consent for each instance it is given. The consent must be either:~~

~~\_\_\_\_\_ (a) prior written consent; or~~

~~\_\_\_\_\_ (b) oral consent for which a provider documents in writing the date and time of the consent, and which the parent or person picking up the child signs upon picking up the child.~~

~~\_\_\_\_\_ (6) If the provider chooses not to administer medication as instructed by the parent, the provider shall notify the parent of their refusal to administer the medication prior to the time the medication needs to be given.~~

~~\_\_\_\_\_ (7) When administering medication, the provider administering the medication shall:~~

~~\_\_\_\_\_ (a) wash their hands;~~

~~\_\_\_\_\_ (b) check the medication label to confirm the child's name;~~

~~\_\_\_\_\_ (c) compare the instructions on the parent release form with the directions on the prescription label or product package to ensure that a child is not given a dosage larger than that recommended by the health care provider or the manufacturer;~~

~~\_\_\_\_\_ (d) administer the medication; and~~

~~(e) immediately record the following information:~~  
~~(i) the date, time, and dosage of the medication given;~~  
~~(ii) the signature or initials of the provider who administered the medication; and,~~  
~~(iii) any errors in administration or adverse reactions.~~  
~~(8) The provider shall report any adverse reaction to a medication or error in administration to the parent immediately upon recognizing the error or reaction, or after notifying emergency personnel if the reaction is life threatening.~~

#### **R430-100-18. Napping.**

~~(1) The center shall provide children with a daily opportunity for rest or sleep in an environment that provides subdued lighting, a low noise level, and freedom from distractions.~~  
~~(2) Scheduled nap times shall not exceed two hours daily.~~  
~~(3) A separate crib, cot, mat, or other sleeping equipment shall be used for each child during nap times.~~  
~~(4) Mats and mattresses used for napping shall have a smooth, waterproof surface.~~  
~~(5) The provider shall maintain sleeping equipment in good repair.~~  
~~(6) If sleeping equipment is clearly assigned to and used by an individual child, the provider must clean and sanitize it as needed, but at least weekly.~~  
~~(7) If sleeping equipment is not clearly assigned to and used by an individual child, the provider must clean and sanitize it prior to each use.~~  
~~(8) The provider must either store sleeping equipment so that the surfaces children sleep on do not touch each other, or else clean and sanitize sleeping equipment prior to each use.~~  
~~(9) A sheet and blanket or acceptable alternative shall be used by each child during nap time. These items shall be:~~  
~~(a) clearly assigned to one child;~~  
~~(b) stored separately from other children's when not in use; and,~~  
~~(c) laundered as needed, but at least once a week, and prior to use by another child.~~  
~~(10) The provider shall space cribs, cots, and mats a minimum of 2 feet apart when in use, to allow for adequate ventilation, easy access, and ease of exiting.~~  
~~(11) Cots and mats may not block exits.~~

#### **R430-100-19. Child Discipline.**

~~(1) The provider shall inform caregivers, parents, and children of the center's behavioral expectations for children.~~  
~~(2) The provider may discipline children using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.~~  
~~(3) Caregivers may use gentle, passive restraint with children only when it is needed to stop children from injuring themselves or others or from destroying property.~~  
~~(4) Discipline measures shall not include any of the following:~~  
~~(a) any form of corporal punishment such as hitting, spanking, shaking, biting, pinching, or any other measure that produces physical pain or discomfort;~~  
~~(b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds that specified in Subsection (3) above.~~

~~(c) shouting at children;~~  
~~(d) any form of emotional abuse;~~  
~~(e) forcing or withholding of food, rest, or toileting; and,~~  
~~(f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.~~

#### **R430-100-20. Activities.**

~~(1) The provider shall post a daily schedule for preschool and school-age groups. The daily schedule shall include, at a minimum, meal, snack, nap/rest, and outdoor play times.~~  
~~(2) Daily activities shall include outdoor play if weather permits.~~  
~~(3) The provider shall offer activities to support each child's healthy physical, social-emotional, and cognitive language development. The provider shall post a current activity plan for parent review listing these activities in preschool and school-age groups.~~  
~~(4) The provider shall make the toys and equipment needed to carry out the activity plan accessible to children.~~  
~~(5) If off-site activities are offered:~~  
~~(a) the provider shall obtain written parental consent for each activity in advance;~~  
~~(b) caregivers shall take written emergency information and releases with them for each child in the group, which shall include:~~  
~~(i) the child's name;~~  
~~(ii) the parent's name and phone number;~~  
~~(iii) the name and phone number of a person to notify in the event of an emergency if the parent cannot be contacted;~~  
~~(iv) the names of people authorized by the parents to pick up the child; and~~  
~~(v) current emergency medical treatment and emergency medical transportation releases;~~  
~~(c) the provider shall maintain required caregiver to child ratios and direct supervision during the activity;~~  
~~(d) at least one caregiver present shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification;~~  
~~(e) caregivers shall take a first aid kit with them;~~  
~~(f) children shall wear or carry with them the name and phone number of the center, but children's names shall not be used on name tags, t-shirts, or other identifiers; and~~  
~~(g) caregivers shall provide a way for children to wash their hands as specified in R430-100-16(2). If there is no source of running water, caregivers and children may clean their hands with wet wipes and hand sanitizer.~~  
~~(6) If swimming activities are offered, caregivers shall remain with the children during the activity, and lifeguards and pool personnel shall not count toward the caregiver to child ratio.~~

#### **R430-100-21. Transportation.**

~~(1) Any vehicle used for transporting children shall:~~  
~~(a) be enclosed;~~  
~~(b) be equipped with individual, size appropriate safety restraints, properly installed and in working order, for each child being transported;~~  
~~(c) have a current vehicle registration and safety inspection;~~  
~~(d) be maintained in a safe and clean condition;~~  
~~(e) maintain temperatures between 60-90 degrees Fahrenheit when in use;~~

- ~~\_\_\_\_\_ (f) contain a first aid kit; and~~
- ~~\_\_\_\_\_ (g) contain a body fluid clean up kit.~~
- ~~\_\_\_\_\_ (2) At least one adult in each vehicle transporting children shall have a current Red Cross, American Heart Association, or equivalent first aid and infant and child CPR certification.~~
- ~~\_\_\_\_\_ (3) The adult transporting children shall:~~
  - ~~\_\_\_\_\_ (a) have and carry with them a current valid Utah driver's license, for the type of vehicle being driven, whenever they are transporting children;~~
  - ~~\_\_\_\_\_ (b) have with them written emergency contact information for all of the children being transported;~~
  - ~~\_\_\_\_\_ (c) ensure that each child being transported is wearing an appropriate individual safety restraint;~~
  - ~~\_\_\_\_\_ (d) ensure that no child is left unattended by an adult in the vehicle;~~
  - ~~\_\_\_\_\_ (e) ensure that all children remain seated while the vehicle is in motion;~~
  - ~~\_\_\_\_\_ (f) ensure that keys are never left in the ignition when the driver is not in the driver's seat; and;~~
  - ~~\_\_\_\_\_ (g) ensure that the vehicle is locked during transport.~~

**R430-100-22. Animals.**

- ~~\_\_\_\_\_ (1) The provider shall inform parents of the types of animals permitted at the facility.~~
- ~~\_\_\_\_\_ (2) All animals at the facility shall be clean and free of obvious disease or health problems that could adversely affect children.~~
- ~~\_\_\_\_\_ (3) All animals at the facility shall have current immunizations for all vaccine preventable diseases that are transmissible to humans. The center shall have documentation of the vaccinations.~~
- ~~\_\_\_\_\_ (4) There shall be no animal on the premises that has a history of dangerous, attacking, or aggressive behavior, or a history of biting even one person.~~
- ~~\_\_\_\_\_ (5) Infants, toddlers, and preschoolers shall not assist with the cleaning of animals or animal cages, pens, or equipment.~~
- ~~\_\_\_\_\_ (6) If a school age child assists in the cleaning of animals or animal equipment, the child shall wash his or her hands immediately after cleaning the animal or equipment.~~
- ~~\_\_\_\_\_ (7) There shall be no animals or animal equipment in food preparation or eating areas.~~
- ~~\_\_\_\_\_ (8) Children shall not handle reptiles or amphibians.~~

**R430-100-23. Diapering.**

- ~~\_\_\_\_\_ If the center diapers children, the following applies:~~
  - ~~\_\_\_\_\_ (1) Caregivers shall change children's diapers at a diaper changing station. Diapers shall not be changed on surfaces used for any other purpose.~~
  - ~~\_\_\_\_\_ (2) Each diapering station shall be equipped with railings to prevent a child from falling when being diapered.~~
  - ~~\_\_\_\_\_ (3) Caregivers shall not leave children unattended on the diapering surface.~~
  - ~~\_\_\_\_\_ (4) The diapering surface shall be smooth, waterproof, and in good repair.~~
  - ~~\_\_\_\_\_ (5) The provider shall post diapering procedures at each diapering station and ensure that they are followed.~~
  - ~~\_\_\_\_\_ (6) Caregivers shall clean and sanitize the diapering surface after each diaper change.~~

- ~~\_\_\_\_\_ (7) Caregivers shall wash their hands before and after each diaper change.~~
- ~~\_\_\_\_\_ (8) Caregivers shall place soiled disposable diapers in a container that has a plastic lining and a tightly fitting lid.~~
- ~~\_\_\_\_\_ (9) The provider shall daily clean and sanitize containers where wet and soiled diapers are placed.~~
- ~~\_\_\_\_\_ (10) If cloth diapers are used:~~
  - ~~\_\_\_\_\_ (a) they shall not be rinsed at the center; and~~
  - ~~\_\_\_\_\_ (b) after a diaper change, the caregiver shall place the cloth diaper directly into a leakproof container that is inaccessible to children and labeled with the child's name, or a leakproof diapering service container.~~
- ~~\_\_\_\_\_ (11) Caregivers shall change children's diapers promptly when they are wet or soiled, and shall check diapers at least once every two hours.~~
- ~~\_\_\_\_\_ (12) Caregivers shall keep a written record daily for each infant and toddler documenting their diaper changes. The record shall be completed within an hour of each diaper change, and shall include the child's name, the time of the diaper change, and whether the diaper was dry, wet, soiled, or both.~~
- ~~\_\_\_\_\_ (13) Care givers whose designated responsibility includes the care of diapered children shall not prepare food for children or staff outside of the classroom area used by the diapered children.~~

**R430-100-24. Infant and Toddler Care.**

- ~~\_\_\_\_\_ If the center cares for infants or toddlers, the following applies:~~
  - ~~\_\_\_\_\_ (1) The provider shall not mix infants and toddlers with older children, unless there are 8 or fewer children present in the group.~~
  - ~~\_\_\_\_\_ (2) Infants and toddlers shall not use outdoor play areas at the same time as older children unless there are 8 or fewer children present in the group.~~
  - ~~\_\_\_\_\_ (3) If an infant is not able to sit upright and hold their own bottle, a caregiver shall hold the infant during bottle feeding. Bottles shall not be propped.~~
  - ~~\_\_\_\_\_ (4) The provider shall clean and sanitize high chair trays prior to each use.~~
  - ~~\_\_\_\_\_ (5) The provider shall cut solid foods for infants into pieces no larger than 1/4 inch in diameter. The provider shall cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.~~
  - ~~\_\_\_\_\_ (6) Baby food, formula, and breast milk that is brought from home for an individual child's use must be:~~
    - ~~\_\_\_\_\_ (a) labeled with the child's name;~~
    - ~~\_\_\_\_\_ (b) labeled with the date and time of preparation or opening of the container, such as a jar of baby food;~~
    - ~~\_\_\_\_\_ (c) kept refrigerated if needed; and~~
    - ~~\_\_\_\_\_ (d) discarded within 24 hours of preparation or opening, except that powdered formula or dry foods which are opened, but are not mixed, are not considered prepared.~~
  - ~~\_\_\_\_\_ (7) Formula and milk, including breast milk, shall be discarded after feeding, or within two hours of initiating a feeding.~~
  - ~~\_\_\_\_\_ (8) To prevent burns, heated bottles shall be shaken and tested for temperature before being fed to children.~~
  - ~~\_\_\_\_\_ (9) Pacifiers, bottles, and non-disposable drinking cups shall be labeled with each child's name, and shall not be shared.~~

~~———— (10) Only one infant or toddler shall occupy any one piece of equipment at any time, unless the equipment has individual seats for more than one child.~~

~~———— (11) Infants shall sleep in equipment designed for sleep such as a crib, bassinet, porta-crib or play pen. Infants shall not be placed to sleep on mats or cots, or in bouncers, swings, car seats, or other similar pieces of equipment.~~

~~———— (12) Cribs must:~~

~~———— (a) have tight fitting mattresses;~~

~~———— (b) have slats spaced no more than 2-3/8 inches apart;~~

~~———— (c) have at least 20 inches from the top of the mattress to the top of the crib rail; and~~

~~———— (d) not have strings, cords, ropes, or other entanglement hazards strung across the crib rails.~~

~~———— (13) Infants shall not be placed on their stomachs for sleeping, unless there is documentation from a health care provider for treatment of a medical condition.~~

~~———— (14) Each infant and toddler shall follow their own pattern of sleeping and eating.~~

~~———— (15) Caregivers shall keep a written record daily for each infant documenting their eating and sleeping patterns. The record shall be completed within an hour of each feeding or nap, and shall include the child's name, the food and beverages eaten, and the times the child slept.~~

~~———— (16) Walkers with wheels are prohibited.~~

~~———— (17) Infants and toddlers shall not have access to objects made of styrofoam.~~

~~———— (18) Caregivers shall respond as promptly as possible to infants and toddlers who are in emotional distress due to conditions such as hunger, fatigue, wet or soiled diapers, fear, teething, or illness.~~

~~———— (19) Awake infants and toddlers shall receive positive physical stimulation and positive verbal interaction with a caregiver at least once every 20 minutes.~~

~~———— (20) Awake infants and toddlers shall not be confined for more than 30 minutes in one piece of equipment, such as swings, high chairs, cribs, play pens, or other similar pieces of equipment.~~

~~———— (21) Mobile infants and toddlers shall have freedom of movement in a safe area.~~

~~———— (22) To stimulate their healthy development, there shall be safe toys accessible to infants and toddlers. There shall be enough toys for each child in the group to be engaged in play with toys.~~

~~———— (23) All toys used by infants and toddlers shall be cleaned and sanitized:~~

~~———— (a) weekly;~~

~~———— (b) after being put in a child's mouth before another child plays with it; and~~

~~———— (c) after being contaminated by body fluids.~~

**R430-100-25. Penalty.**

~~———— The Department may impose civil money penalties in accordance with Title 63, Chapter 46b, Administrative Procedures Act, if there has been a failure to comply with the provisions of this chapter, or rules promulgated pursuant to this chapter.~~

**KEY:** ~~child care facilities, child care, child care centers~~

**Date of Enactment or Last Substantive Amendment:** ~~September 1, 2013~~

**Notice of Continuation:** ~~August 3, 2012~~

**Authorizing, and Implemented or Interpreted Law:** ~~26-39]~~

Pardons (Board of), Administration  
**R671-303-1**  
 Information Received, Maintained or  
 Used by the Board

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 39107

FILED: 02/03/2015

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The Board discloses information used in making parole decisions to the individual before a hearing. This amendment controls how photographs are disclosed and makes technical corrections.

**SUMMARY OF THE RULE OR CHANGE:** Before a hearing, the Board discloses information to the offender that the Board will use in making a decision. This is an important part of due process so the offender can respond or correct information at the hearing. The proposed amendment adds photographs to the list of material disclosed and makes technical corrections.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 63G, Chapter 2

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** The amendment does not create cost or savings to the state budget. Before holding a hearing the Board discloses information to the offender so the offender can correct or respond to the information before the Board makes a decision. The proposed rule adds clarification about photographs but does not alter the fundamental process. The change will not create a cost or savings for the state budget.

♦ **LOCAL GOVERNMENTS:** Local governments do not participate in parole hearings and are not affected by this change.

♦ **SMALL BUSINESSES:** Small businesses do not participate in parole hearings and are not affected by this change.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The rule directs Board staff to disclose information to the offender. No other persons are involved in this process. The proposed rule does not apply to small business, business, or other government entities.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The Board provides free copies of the information to the offender. Disclosing the additional information described in this rule change will also be at no cost to the offender.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment does not create a fiscal impact for business.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

PARDONS (BOARD OF)  
ADMINISTRATION  
ROOM 300  
448 E 6400 S  
SALT LAKE CITY, UT 84107-8530  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Greg Johnson by phone at 801-261-6454, by FAX at 801-261-6481, or by Internet E-mail at gregjohnson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2015

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 03/09/2015 08:00 AM, Board of Pardons, 448 E Winchester, Suite #300, Murray, UT

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2015

AUTHORIZED BY: Angela Micklos, Chair

**R671. Pardons (Board of), Administration.**

**R671-303. Information Received, Maintained or Used by the Board.**

**R671-303-1. Information Received, Maintained or Used by the Board.**

(1) Offender Access to Information

(a) Absent a security or safety concern, as determined by the Board, an offender will be provided access to the information being considered by the Board and given an opportunity to respond to such information, whenever the Board sets or extends the offender's parole or release date. If the Board determines offender access to information presents a security or safety concern, the offender will be provided a written summary of the material information being considered.

(b) The Board, upon request or upon [it's]its own motion, may continue a hearing to allow submission of additional documentation or information. The Board will consider any relevant facts obtained at the hearing or later submitted by the offender, provided such later submitted information is received within [five (5)]fourteen (14) days following the hearing.

(c) The Board will [also-]provide an offender with a copy of the records not provided for previous hearings and contained in the offender's file at least three days prior to any personal appearance hearing in which a parole or release date may be fixed or extended by the Board. Any additional information obtained by the Board after this initial disclosure will be provided to the offender at the beginning of the hearing. In such event, the offender will be given an opportunity to review the supplemental information

before proceeding. If no additional time is requested by the offender, the hearing will proceed as scheduled.

(d) For administrative routings to fix an original hearing date, the Board will only consider information available to the court at the time of sentencing. This information will be disclosed to the offender at the time of an original hearing. [~~This information will not be disclosed to the offender until the time of his/her original hearing, as it has already been disclosed in court.~~]

(2) Submission of Information

(a) Other than concise and brief letters, or statements by the offender, all other materials, briefs or written memoranda or argument submitted by or on behalf of any person, in preparation for a hearing (excluding commutation hearings governed by Rule R671-312), shall be limited to no more than five (5) pages in length.

(b) Photographs may be submitted but should be relevant to the offense. The Department of Corrections limits the number of photographs that an inmate may possess and photographs of victims are contraband. Therefore the Board will disclose photographs at the beginning of a hearing. The offender may view the photographs but not retain them. As noted in section (1) the offender may request additional time to respond or submit supplemental information.

(c) Submissions by legal counsel for or on behalf of an offender must be received by the Board no later than seven (7) days prior to any scheduled hearing.

(d) The Board reserves the right to strike from the offender's file, and to refuse to accept or consider any material or submissions which are irrelevant, defamatory, or which do not otherwise conform to this rule.

**KEY: inmates' rights, inmates, parole, records**

**Date of Enactment or Last Substantive Amendment: [~~June 29, 2010~~2015]**

**Notice of Continuation: January 31, 2012**

**Authorizing, and Implemented or Interpreted Law: 63G-2**

## Pardons (Board of), Administration **R671-305-1** Board Decisions and Orders

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 39137

FILED: 02/12/2015

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The proposed change expands and clarifies when the Board will issue a written rationale sheet along with its decision and order. The rationale sheet provides additional explanation to the individual and the public about the reasoning behind the Board's decision.

**SUMMARY OF THE RULE OR CHANGE:** The proposed change lists the types of hearings when the Board will issue a rationale sheet to accompany its order.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Article VII, Section 12 and Section 77-27-10 and Subsection 63G-3-201(3) and Subsection 77-27-9(4)(a)

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** Although some additional work is required to create the rationale sheet the Board will absorb the increase within existing resources.
- ◆ **LOCAL GOVERNMENTS:** The proposed change does not impact local government because the proposed rule affects only the operations of the board. No requirements are placed on local government.
- ◆ **SMALL BUSINESSES:** The proposed change does not impact local government because the proposed rule affects only the operations of the board. No requirements are placed on small businesses.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed change only affects internal operations by requiring the Board to provide additional information to the individual and to the public. There are no compliance costs or actions required from any other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The proposed change provides additional information to the individual but there is no cost for compliance or any action required from the individual.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The proposed rule does not have any fiscal impact on business because the rule applies to internal Board operations. The proposed rule increases the number of circumstances in which the Board will provide a rationale sheet to the involved individual and the public. There are no compliance costs or actions required of anyone outside of the Board.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

PARDONS (BOARD OF)  
ADMINISTRATION  
ROOM 300  
448 E 6400 S  
SALT LAKE CITY, UT 84107-8530  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Greg Johnson by phone at 801-261-6454, by FAX at 801-261-6481, or by Internet E-mail at gregjohnson@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2015

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

- ◆ 03/09/2015 08:00 AM, Board of Pardons, 448 E Winchester, Suite 300, Murray, UT

THIS RULE MAY BECOME EFFECTIVE ON: 04/07/2015

AUTHORIZED BY: Angela Micklos, Chair

**R671. Pardons (Board of), Administration.**

**R671-305. Board Decisions and Orders.**

**R671-305-1. Board Decisions and Orders.**

Decisions of the Board will be ~~reached by, or ratified by, a majority vote and~~ reduced to a written order ~~writing~~. ~~including~~ Orders entered following original hearings, re-hearings, special attention hearings, parole violation hearings, evidentiary hearings, and rescission hearings will be accompanied by a brief rationale for the ~~decision~~ order. The Board's written ~~decisions and~~ orders and rationale statements are public documents. A copy ~~Copies~~ of the ~~Board's decision~~ order and rationale statement if entered, shall be provided or mailed to the ~~offender~~ person who is the subject of the ~~decision~~ order. The Board shall maintain a copy of all ~~decisions rendered~~ orders entered in each case. The Board may publish its ~~decisions~~ orders on its website ~~or other forum or in other forms,~~ at its discretion and convenience.

**KEY: government hearings**

**Date of Enactment or Last Substantive Amendment:** ~~October 4, 2012~~ 2015

**Notice of Continuation:** January 31, 2012

**Authorizing, and Implemented or Interpreted Law:** Art VII, Sec 12; 63G-3-201(3); 77-27-9(4)(a); 77-27-10

**School and Institutional Trust Fund  
Board of Trustees, Administration  
R849-1  
Appeal Rule**

**NOTICE OF PROPOSED RULE**

(New Rule)

DAR FILE NO.: 39143

FILED: 02/17/2015

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this new rule is to implement an administrative hearing procedure as required by H.B. 168 (2014 General Session).

**SUMMARY OF THE RULE OR CHANGE:** The rule establishes an administrative hearing procedure for a person aggrieved by a decision or action of the director or office.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 53D-1-702



**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** No anticipated costs or savings are expected. The rule implements requirements of H.B. 168 (2014).
- ◆ **LOCAL GOVERNMENTS:** No anticipated costs or savings are expected. The rule implements requirements of H.B. 168 (2014).
- ◆ **SMALL BUSINESSES:** No anticipated costs or savings are expected. The rule implements requirements of H.B. 168 (2014).
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No anticipated costs or savings are expected. The rule implements requirements of H.B. 168 (2014).

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** No anticipated costs or savings are expected. The rule implements requirements of H.B. 168 (2014).

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule does not have a fiscal impact on businesses. The rule implements requirements of H.B. 168 (2014).

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 SCHOOL AND INSTITUTIONAL TRUST FUND BOARD OF TRUSTEES ADMINISTRATION  
 350 NORTH STATE STREET  
 SALT LAKE CITY, UT 84114  
 or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
 ◆ Allen Rollo by phone at 801-538-1462, by FAX at 801-538-1465, or by Internet E-mail at arollo@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 03/31/2015

THIS RULE MAY BECOME EFFECTIVE ON: 04/15/2015

AUTHORIZED BY: Richard Ellis, State Treasurer

**R849. School and Institutional Trust Fund Board of Trustees, Administration.**

**R849-1. Appeal Rule.**

**R849-1-1. Introduction and Authority.**

- (1) This rule sets forth the administrative hearing procedures for the Office.
- (2) This rule is authorized by Sections 53D-1-701 and 702.

**R849-1-2. Definitions.**

(1) "Action" means an action by the Office that affects the legal rights of a person or group of persons, but not including rules made under the Utah Administrative Rulemaking Act, Title 63G, Chapter 3.

(2) "Administrative Law Judge" or ALJ means the person appointed to conduct an adjudicatory proceeding.

(3) "Ex Parte Communication" means direct or indirect communication in connection with an issue of fact or law between the ALJ and one party only.

(4) "Order" means a ruling by an ALJ that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more specific persons.

(5) "Respondent" means any group or individual who is adversely affected by any action or inaction of the Office.

(6) "Office" means the School and Institutional Trust Fund Office established under Section 53D-1-101 et seq.

**R849-1-3. Computation of Time.**

Unless otherwise provided in a specific section of these rules, time shall be computed in accordance with the Utah Rules of Civil Procedure.

**R849-1-4. Request for Hearing.**

(1) An aggrieved person may file a written request for agency action pursuant to Section 63G-4-201, and in accordance with this rule.

(2) Hearings must be requested within 30 calendar days from the date that the Office sends written notice of its intended action.

(3) Failure to submit a timely request for a hearing constitutes a waiver of a respondent's due process rights. The request must explain why the party is seeking agency relief, and the party must submit the request on the "Request for Hearing/Agency Action" form. The party must then mail or fax the form to the address or fax number contained on the notice of agency action.

(4) The Office considers a hearing request that a recipient sends via mail to be filed on the date of the postmark. If the postmark date is illegible, erroneous, or omitted, the Office considers the request to be filed on the date that the Office receives it, unless the sender can demonstrate through competent evidence that it was mailed before the date of receipt.

**R849-1-5. Designation of Proceedings Informal.**

(1) All proceedings shall be considered informal hearings.

(2) Informal hearings will be conducted in accordance with the Utah Administrative Procedure Act, Sections 63G-4-202, 203, 209, 302, 401, 402, 405, 501, 502, 503, and 601.

**R849-1-6. Service.**

(1) The individual or party that files a document with the Office shall also serve the document upon all other named parties to the proceeding and file a proof of service with the Office that consists of a certificate, affidavit or acknowledgment of service.

(2) If the Office must provide notice of a hearing, the notice becomes effective on the date notification is sent.

**R849-1-7. Availability of Hearing.**

(1) All requests for Hearings/Agency Action shall be set for an initial hearing in accordance with Section R849-1-11.

(2) The ALJ will conduct an evidentiary hearing in connection with the agency action if the aggrieved person requests a hearing and there is a disputed issue of fact. If there is no disputed issue of fact, the ALJ may deny a request for an evidentiary hearing.

and issue a recommended decision without a hearing. There is no disputed issue of fact if the aggrieved person submits facts that do not conflict with the facts that the agency relies upon in taking action or seeking relief.

(3) The Office may deny or dismiss a request for a hearing if the aggrieved person:

- (a) withdraws the request in writing;
- (b) verbally withdraws the hearing request at a prehearing conference;
- (c) fails to appear or participate in a scheduled proceeding without good cause;
- (d) prolongs the hearing process without good cause;
- (e) cannot be located or agency mail is returned without a forwarding address; or
- (f) does not respond to any correspondence from the ALJ.

(4) If the aggrieved person objects to the hearing denial, the person may raise that objection as grounds for relief in a request for reconsideration with the Agency board in accordance with Section 63G-4-302.

#### **R849-1-8. Administrative Law Judge.**

(1) The Board shall appoint an impartial ALJ to conduct any hearing provided under these rules. Previous involvement in the initial determination of the action precludes an ALJ from appointment.

(2) The ALJ shall maintain order and may recess the hearing to regain order if a person engages in disrespectful, disorderly or disruptive conduct. The ALJ may remove any person, including a participant, from the hearing to maintain order. If a person shows persistent disregard for order and procedure, the ALJ may:

- (a) restrict the person's participation in the hearing;
- (b) strike pleadings or evidence; or
- (c) issue an order of default.

#### **R849-1-9. Modifying Requirements of Rules.**

(1) Except as provided in this paragraph, the requirements of these rules may be modified by order of the ALJ for good cause.

(2) The requirements for timely filing a Request for Hearing under Section R849-1-4 may not be modified.

#### **R849-1-10. Ex Parte Communications.**

- (1) Ex parte communications are prohibited.
- (2) The ALJ may not listen to or accept any ex parte communication. If a party attempts ex parte communication, the ALJ shall inform the offeror that any communication that the ALJ receives off the record will become part of the record and furnished to all parties.
- (3) Ex parte communications do not apply to communications on the status of the hearing and uncontested procedural matters.

#### **R849-1-11. The Informal Hearing.**

(1) Unless otherwise provided in this section, informal hearings shall be conducted in accordance with Section 63G-4-202 and 203.

(2) As set forth in R849-1-7, all request for hearings/agency action shall be set for initial hearing within 30 days, only after at least 10-day notice of all parties.

(3) The Office shall notify the respondent and Office representative of the date, time and place of the hearing at least ten days in advance of the hearing. Continuances of scheduled hearings are not favored, but may be granted by the president officer for good cause shown. Failure by a respondent to appear at the hearing after notice has been given shall be grounds for default and shall waive both the right to contest the allegations and the right to the hearing.

(4) The respondent named in the notice of agency action and the Office shall be permitted to testify, present evidence, and comment on the issues. Formal rules of evidence shall not apply.

(5) Testimony may be taken under oath at the ALJ's discretion.

(6) All hearings are open to all parties.

(7) Discovery is prohibited; informal disclosures will be ruled on at the pre-hearing conference.

(8) Subpoenas and orders to secure the attendance of witnesses or the production of evidence shall be issued by the ALJ when requested by a respondent or the Office, or may be issued by the ALJ on his/her own motion.

(9) A respondent shall have access to relevant information contained in the Office's files and to material gathered in the investigation of respondent to the extent permitted by law.

(10) The ALJ may cause an official record of the hearing to be made, at the Office's expense.

(11) Disposition of the ALJ's Order:

(a) Within a reasonable time after the close of the informal proceeding, the ALJ shall issue a signed order in writing that includes the following: the decision, the reasons for the decision, the Order, a notice of any right to administrative or judicial review of the order available to aggrieved parties and the time limits applicable to any reconsideration or review.

(b) The order shall be based on the facts appearing in the Office's files and on the facts presented in evidence at the informal hearing.

(c) A copy of the ALJ order shall be promptly mailed to each party.

#### **R849-1-12. Proposed Decision and Final Agency Review.**

(1) At the conclusion of the hearing, the ALJ shall take the matter under advisement and submit a recommended decision to the Board. The recommended decision is based on the testimony and evidence entered at the hearing and legal precedent.

(2) The recommended decision must contain findings of fact and conclusions of law.

(3) The Board may:

(a) adopt the recommended decision or any portion of the decision;

(b) reject the recommended decision or any portion of the decision, and make an independent determination based upon the record; or

(c) remand the matter to the ALJ for further proceeding, and the ALJ thereafter shall submit to the Board a new recommended decision.

(4) The Board's decision constitutes final administrative action and is subject to judicial review.

(5) The Board shall send a copy of the final administrative action to each party or representative and notify them of their right to judicial review.

(6) The parties shall comply with a final decision from the Board reversing the agency's decision within ten calendar days.

**R849-1-13. Declaratory Orders.**

(1) Any person may file a request for Office action, requesting that the Office issue a declaratory order determine the applicability of a statute, rule, or order within the primary jurisdiction of the Office in accordance with 63G-4-503.

(2) Petition Form. The petition shall:

(a) Be clearly designated as a request for a declaratory order;

(b) identify the statute, rule, or order to be reviewed;

(c) describe the situation or circumstances giving rise to the need for the declaratory order or in which applicability of the statute, rule, or order is to be reviewed;

(d) describe the reason or need for the applicability review;

(e) identify the person or agency directly affected by the statute, rule, or order;

(f) include an address and telephone where the petitioner can be reached during regular work days; and

(g) be signed by the petitioner.

(3) The provisions of Sections 63G-4-202 through 63G-4-302 apply to declaratory proceedings.

(4) The Office will not issue a declaratory order that deals with a question or request that the ALJ determines is:

(a) not within the jurisdiction and competence of the Office;

(b) trivial, irrelevant, or immaterial;

(c) not one that is ripe or appropriate for determination;

(d) currently pending or will be determined in an on-going judicial proceeding;

(e) prohibited by state or federal law; or

(f) challenge the validity of a federal statute or regulation.

**KEY: adjudicative proceedings, appeals, hearings**

**Date of Enactment or Last Substantive Amendment: 2015**

**Authorizing and Implemented or Interpreted Law: 53D-1-702**

**End of the Notices of Proposed Rules Section**



## NOTICES OF CHANGES IN PROPOSED RULES

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After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends March 31, 2015.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (*example*). Deletions made to the rule appear struck out with brackets surrounding them (~~example~~). A row of dots in the text between paragraphs (. . . . .) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Division of Administrative Rules may include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Division of Administrative Rules.

From the end of the 30-day waiting period through June 29, 2015, an agency may notify the Division of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Division of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

**CHANGES IN PROPOSED RULES** are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

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**The Changes in Proposed Rules Begin on the Following Page**

**Environmental Quality, Radiation  
Control  
R313-37**

**Physical Protection of Category 1 and  
Category 2 Quantities of Radioactive  
Material**

**NOTICE OF CHANGE IN PROPOSED RULE**

DAR FILE NO.: 38908

FILED: 02/17/2015

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of the change is to correct typographical errors in a couple of rule references as noted and requested by the U.S. Nuclear Regulatory Commission (NRC) in their letter dated 12/16/2014.

**SUMMARY OF THE RULE OR CHANGE:** In Subsection R313-37-3(2)(b)(ii), the rule reference of "37.43(c)(1)(i)" should read "37.43(c)(1)(ii)." In Subsection R313-37-3(3)(b) and (c), the rule reference of "10 CFR 37.97" should read "10 CFR 71.97." (DAR NOTE: This change in proposed rule has been filed to make additional changes to a proposed new rule that was published in the November 1, 2104, issue of the Utah State Bulletin, on page 21. Underlining in the rule below indicates text that has been added since the publication of the proposed rule mentioned above; strike-out indicates text that has been deleted. You must view the change in proposed rule and the proposed new rule together to understand all of the changes that will be enforceable should the agency make this rule effective.)

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** 10 CFR 37 and Subsection 19-3-104(4) and Subsection 19-3-104(8)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The proposed changes are to correct typographical errors in rule references in the proposed rules. There will be no costs associated with these changes.

◆ **LOCAL GOVERNMENTS:** The proposed changes are to correct typographical errors in rule references in the proposed rules. There will be no costs associated with these changes.

◆ **SMALL BUSINESSES:** The proposed changes are to correct typographical errors in rule references in the proposed rules. There will be no costs associated with these changes.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed changes are to correct typographical errors in rule references in the proposed rules. There will be no costs associated with these changes.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The proposed changes are to correct typographical errors in rule references in the proposed rules. There will be no costs associated with these changes.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The corrections to the rule references is important to ensure that the Division of Radiation Control adopts rules that are compatible with those of the NRC, as requested by the NRC. Since these changes address typographical errors in referenced rules, there will be no fiscal impact on business from the proposed rules changes.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

ENVIRONMENTAL QUALITY  
RADIATION CONTROL  
THIRD FLOOR  
195 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Philip Griffin by phone at 801-536-4261, by FAX at 801-533-4097, or by Internet E-mail at pgriffin@utah.gov

THIS RULE MAY BECOME EFFECTIVE ON: 06/30/2015

AUTHORIZED BY: Rusty Lundberg, Director

**R313. Environmental Quality, Radiation Control.**

**R313-37. Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material.**

**R313-37-1. Purpose and Authority.**

(1) The rules in R313-37 prescribe requirements for the physical protection program for a licensee that possesses an aggregated category 1 or category 2 quantity of radioactive material.

(2) The rules set forth herein are adopted pursuant to the provisions of Subsections 19-3-104(4) and 19-3-104(8).

(3) The requirements of R313-37 are in addition to, and not in substitution for, the other requirements of these rules.

**R313-37-2. Scope.**

These requirements provide reasonable assurance of the security of category 1 and category 2 quantities of radioactive material by protecting these materials from theft or diversion. Specific requirements for access to material, and use, transfer, and transportation of material are included.

**R313-37-3. Clarifications or Exceptions.**

For purposes of R313-37, 10 CFR 37.5, 37.11(c), 37.21 through 37.43(d)(8), 37.45 through 37.103, and Appendix A to 10 CFR 37 (2014), are incorporated by reference with the following clarifications or exceptions:

- (1) The exclusion of the following:
- (a) In 10 CFR 37.5, exclude definitions for "Act", "Agreement State", "Becquerel", "Byproduct Material", "Commission", "Curie", "Government Agency", "License", "License issuing authority", "Lost or missing licensed material", "Person", "State", and "United States";
  - (b) In 10 CFR 37.77, exclude the wording "Notifications to the NRC must be to the NRC's Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The notification to the NRC may be made by email to RAMQC\_SHIPMENTS@nrc.gov or by fax to 301-816-5151."; and
  - (c) In 10 CFR 37.81(g), exclude the wording "In addition, the licensee shall provide one copy of the written report addressed to the Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001."
- (2) The substitution of the following wording:
- (a) "Utah Radiation Control Rule" for references to:
    - (i) "Commission regulation" in 10 CFR 37.101; and
    - (ii) "regulation" in 10 CFR 37.103;
  - (b) "Utah Radiation Control Rules" for reference to:
    - (i) "regulations and laws" in 10 CFR 37.31(d);
    - (ii) "Commission requirements" in 10 CFR 37.43(a)(3) and 37.43(c)(1)(i); and
    - (iii) "regulations in this part" in 10 CFR 37.103;
  - (c) "Director" for references to:
    - (i) "appropriate NRC regional office listed in Section 30.6(a)(2)" in 10 CFR 37.45(b);
    - (ii) "Commission" in 10 CFR 37.103;
    - (iii) "NRC" in 10 CFR 37.31(d), 37.43(c)(3)(iii), 37.57(a) and (c), 37.77, and 37.77(a)(1) (first instance) and (3);
    - (iv) "NRC's Director, Division of Security Policy, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 29555-0001" in 10 CFR 37.77(c)(2) and 37.77(d);
    - (v) "NRC's Director of Nuclear Security, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 29555-0001" in 10 CFR 37.77(c)(1);
    - (vi) "NRC's Operations Center" in 10 CFR 37.81(a) and (b);
    - (vii) "NRC's Operations Center (301-816-5100)" in 10 CFR 37.57(a) and (b) and 37.81(a) through (f);
    - (viii) "NRC regional office listed in section 30.6(a)(2) of this chapter" in 10 CFR 37.41.(a)(3); and
    - (ix) "NRC regional office specified in section 30.6 of this chapter" in 10 CFR 37.41(a)(3);
    - (d) "Director, the U.S. Nuclear Regulatory Commission, or an Agreement State" for references to "Commission or an Agreement State" in 10 CFR 37.71 and 37.71(a) and (b);
    - (e) "U.S. Nuclear Regulatory Commission's Security Orders or the legally binding requirement issued by Agreement States" for references to "Security Orders" in 10 CFR 37.21(a)(3), 37.25(b)(2), and 37.41(a)(3);
    - (f) "mail, hand delivery, or electronic submission" for references to "an appropriate method listed in section 37.7" in 10 CFR 37.57(c) and 37.81(g); and
    - (g) "shall, by mail, hand delivery, or electronic submission," for reference to "shall use an appropriate method listed in section 37.7 to" in 10 CFR 37.27(c).

(3) The substitution of the following rule references:

    - (a) "R313-19-41(4)" for reference to "section 30.41(d) of this chapter.";
    - (b) "R313-19-100 (incorporating 10 CFR [37]71.97 by reference)" for reference to "section 71.97 of this chapter" in 10 CFR 37.73(b);
    - (c) "R313-19-100 (incorporating 10 CFR [37]71.97(b) by reference)" for reference to "section 71.97(b) of this chapter" in 10 CFR 37.73(b); and
    - (d) "10 CFR 73" for references to "part 73 of this chapter" in 10 CFR 37.21(c)(4), 37.25(b)2), and 37.27(a)(4).

**KEY: radioactive material, security, fingerprinting, transportation**  
**Date of Enactment or Last Substantive Amendment: 2015**  
**Authorizing, and Implemented or Interpreted Law: 19-3-104; 19-3-108**

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**End of the Notices of Changes in Proposed Rules Section**





# FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

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Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <http://www.rules.utah.gov/publicat/code.htm>. The rule text may also be inspected at the agency or the Division of Administrative Rules. **REVIEWS** are effective upon filing.

**REVIEWS** are governed by Section 63G-3-305.

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## Environmental Quality, Administration **R305-5** Health Reform - Health Insurance Coverage in DEQ State Contracts - Implementation

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 39135  
FILED: 02/09/2015

### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The rule is required under Section 19-1-206. Specifically, the Department is required to adopt the requirements in Subsection 19-1-206(6). Specifically, the Department is required to make a rule that: 1) establishes requirements and procedures for a contractor to follow to demonstrate compliance with Section 19-1-206, which requires certain contractors to carry health insurance for their employees; 2) specifies how a contractor can establish that it meets the rules by providing a demonstration of "actuarial equivalency"; and 3) describes penalties.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: This is the first five-year review. No comments have been received since the rule was promulgated.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The Department is required, under Subsection 19-1-206(6), to promulgate a rule that contains the requirements and limitations in Rule R305-5. Therefore, this rule should be continued. There have been no comments on the rule since it was promulgated.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
ENVIRONMENTAL QUALITY  
ADMINISTRATION  
195 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Laura Lockhart by phone at 801-536-0283, by FAX at 801-366-0292, or by Internet E-mail at [llockhart@utah.gov](mailto:llockhart@utah.gov)

AUTHORIZED BY: Brad Johnson, Deputy Director

EFFECTIVE: 02/09/2015

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## Environmental Quality, Air Quality **R307-103** Administrative Procedures

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 39109  
FILED: 02/05/2015

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Utah Administrative Procedures Act (UAPA), Subsection 63G-4-102(6), allows state administrative agencies to enact rules "affecting or governing adjudicative proceedings," so long as the rules are adopted according to the Utah Administrative Rulemaking Act and conform to the requirements of UAPA. Rule R307-103 establishes administrative procedures that are tailored to DAQ's administrative needs and the needs of those affected by the agency's actions. The procedures in Rule R307-103 ensure consistency in the Division's administrative actions and give constitutional due process and fair notice to the regulated community and the public of their and DAQ's roles and responsibilities in the agency's actions.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Rule R307-103 has been amended three times since the last five-year review (DAR No. 34682, 34689, and 38252). Only one comment was received; however, the comment did not directly address the proposed amendment to Rule R307-103, but rather were addressed to the Department Rule R305-6 (now numbered Rule R305-7).

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-103 sets forth administrative processes for the Division of Air Quality and the regulated community to ensure constitutional due process for the regulated community and the public, and should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 ENVIRONMENTAL QUALITY  
 AIR QUALITY  
 FOURTH FLOOR  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116-3085  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 02/05/2015

**Environmental Quality, Air Quality  
 R307-165  
 Emission Testing**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 39110  
 FILED: 02/05/2015

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(1)(a) allows the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources...." One component of preventing air pollution is testing to ensure that control equipment is working properly.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been submitted on this rule since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-165 establishes the frequency of emission testing requirements for all areas in the state. Without periodic testing, there is no guarantee that pollution control equipment is working properly. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 ENVIRONMENTAL QUALITY  
 AIR QUALITY  
 FOURTH FLOOR  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116-3085  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 02/05/2015

Environmental Quality, Air Quality  
**R307-201**

Emission Standards: General  
Emission Standards

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 39111  
FILED: 02/05/2015

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(1)(b) allows the Air Quality Board to make rules "establishing air quality standards." Standards are needed to ensure that emissions of air pollution do not harm public health.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Standards are needed to ensure that emissions of air pollution do not harm public health. This rule establishes emission standards statewide. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
ENVIRONMENTAL QUALITY  
AIR QUALITY  
FOURTH FLOOR  
195 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 02/05/2015

Environmental Quality, Air Quality  
**R307-202**

Emission Standards: General Burning

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 39113  
FILED: 02/05/2015

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(1)(a) allows the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources...." Rule R307-202 sets forth the conditions under which burning of yard clippings is allowed, forbids burning at community waste disposal sites, and the burning of trash or garbage. Rule R307-202 does not regulate fireplaces or outdoor grills.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Rule R307-202 has been amended two times since the last five-year review (DAR No. 35923 and 38672). Comments received since the last five-year review were to make suggestions to improve proposed amendments to the rule and to support adding an exemption for ceremonial burning when conducted by a Native American spiritual advisor.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-202 is necessary to specify time windows when local officials may allow burning for yard cleanup, and to set forth the kinds of burning for which permits are not needed; and should be continued. In addition, Rule R307-202 is a component of Utah's State Implementation Plan, and cannot be deleted without EPA approval.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
ENVIRONMENTAL QUALITY  
AIR QUALITY  
FOURTH FLOOR  
195 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 02/05/2015

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 ENVIRONMENTAL QUALITY  
 AIR QUALITY  
 FOURTH FLOOR  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116-3085  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 02/05/2015

**Environmental Quality, Air Quality**  
**R307-203**  
**Emission Standards: Sulfur Content of Fuels**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 39112  
 FILED: 02/05/2015

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Rule R307-203 establishes the maximum amount of sulfur that may be contained in coal and oil burned in industrial processes and residential heating, thus holding down the emissions of sulfur dioxide from these processes. Subsection 19-2-104(1)(a) authorizes the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminant source."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no written comments received since the last five-year review of Rule R307-203.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Sulfur dioxide is harmful to human health, which is the basis for EPA's listing of sulfur dioxide as a principal pollutant. Without this rule, users could burn coal or oil with higher sulfur content, thus emitting more sulfur dioxide into the atmosphere. In addition, Rule R307-203 is a component of Utah's State Implementation Plan, and cannot be deleted without EPA approval. Therefore, this rule should be continued.

**Environmental Quality, Air Quality**  
**R307-204**  
**Emission Standards: Smoke Management**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**  
 DAR FILE NO.: 39114  
 FILED: 02/05/2015

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(1)(a) allows the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminant source." Rule R307-204 protects the public health by controlling the release and impact of particulate pollution associated with prescribed and controlled fires in the State of Utah. Rule R307-204 also describes the operational procedures to follow when prescribed fires, wildland fires, or wildland fire use events take place on specific lands in Utah owned or managed by state and federal land management agencies. Rule R307-204 does not apply to agricultural activities specified in Section 19-2-114.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Since the last five-year review one comment was submitted by EPA that identified a typographical error. That error was corrected in an amendment to the rule in 2011 (DAR No. 34559).

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-204 protects the public health by controlling the release and impact of particulate pollution associated with prescribed and controlled fires in the State of Utah. Under Rule R307-204, prescribed fires requiring a burn plan cannot be ignited and wildland fire use events cannot be managed before the director approves or conditionally approves the burn request. Smoke has also become the dominant public complaint, further supporting the need for this regulation. Therefore, this rule should be continued. In addition, Rule R307-204 is a component of Utah's State Implementation Plan, and it cannot be deleted without EPA approval.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

ENVIRONMENTAL QUALITY  
AIR QUALITY  
FOURTH FLOOR  
195 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at [mberger@utah.gov](mailto:mberger@utah.gov)

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 02/05/2015

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## Environmental Quality, Air Quality **R307-205**

### Emission Standards: Fugitive Emissions and Fugitive Dust

#### **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 39115  
FILED: 02/05/2015

#### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: The Air Quality Board is required by Subsection 19-2-101(2) to "...achieve and maintain levels of air quality which will protect human health and safety...." In addition, Subsection 19-2-104(1)(a) allows the Board to make rules "regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the

maximum quantity of air contaminants that may be emitted by any air contaminant source...." Also, Subsection 19-2-109(2) (a) allows the Board to "establish emission control requirements by rule that in its judgment may be necessary to prevent, abate, or control air pollution that may be statewide or may vary from area to area, taking into account varying local conditions." Finally, Subsection 19-2-104(3)(e) allows the Board to "...prepare and develop a comprehensive plan or plans for the prevention, abatement, and control of air pollution in this state." Rule R307-205 protects the public health by reducing emissions from industries, gravel pits, constructions sites, haul trucks, mines, and tailings ponds, as authorized by the above statutes.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-205 reduces emissions from industries, gravel pits, constructions sites, haul trucks, mines, and tailings ponds. In addition, dust complaints make up a significant portion of complaints received by the Division of Air Quality. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

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FOURTH FLOOR  
195 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at [mberger@utah.gov](mailto:mberger@utah.gov)

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 02/05/2015

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## Environmental Quality, Air Quality **R307-206**

### Emission Standards: Abrasive Blasting

#### **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 39116  
FILED: 02/05/2015

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Rule R307-206 sets forth performance standards and maximum concentration of contaminants allowed in the air for operations that clean or prepare a surface by forcefully propelling a stream of abrasive material against the surface. Subsection 19-2-104(1)(a) allows the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminant source."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule protects the health of citizens when abrasive blasting operations are underway, and should be continued. In addition, this rule is a component of Utah's State Implementation Plan (SIP), and it cannot be deleted from the SIP without EPA's approval.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

ENVIRONMENTAL QUALITY  
 AIR QUALITY  
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 195 N 1950 W  
 SALT LAKE CITY, UT 84116-3085  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 02/05/2015

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**Environmental Quality, Air Quality  
 R307-207  
 Residential Fireplaces and Solid Fuel  
 Burning Devices**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 39117  
 FILED: 02/05/2015

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Rule R307-207 establishes visible emission from residential solid fuel burning devices and fireplaces. The Air Quality Board is required by Subsection 19-2-101(2) to "...achieve and maintain levels of air quality which will protect human health and safety..." In addition, Subsection 19-2-104(1)(a) allows the Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminant source...."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments were received regarding Rule R307-207 since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-207 establishes visible emission standards necessary to control PM10 throughout Utah. In addition, this rule is a component of Utah's State Implementation Plan (SIP), and it cannot be deleted from the SIP without EPA's approval. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

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 AIR QUALITY  
 FOURTH FLOOR  
 195 N 1950 W  
 SALT LAKE CITY, UT 84116-3085  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
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AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 02/05/2015

**Environmental Quality, Air Quality**  
**R307-305**  
**Nonattainment and Maintenance areas**  
**for PM10: Emission Standards**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 39118  
FILED: 02/05/2015

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Rule R307-305 sets visible emission limits, testing methods and schedules, and compliance schedules for sources of air pollution that are regulated under Utah's PM10 state implementation plan to protect public health. Subsection 19-2-104(1)(a) allows the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminant source."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments on this rule since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Emission limits and testing of emissions, which this rule outlines, help to ensure that industrial facilities are operating properly and emitting the least possible pollution to protect human health. Additionally, Rule R307-305 is a component of Utah's State Implementation Plan and cannot be deleted without EPA approval. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

ENVIRONMENTAL QUALITY  
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195 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
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DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at [mberger@utah.gov](mailto:mberger@utah.gov)

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 02/05/2015

**Environmental Quality, Air Quality**  
**R307-306**  
**PM10 Nonattainment and Maintenance**  
**Areas: Abrasive Blasting**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 39119  
FILED: 02/05/2015

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule establishes requirements that apply to abrasive blasting operations in PM10 nonattainment and maintenance areas. Subsection 19-2-104(1)(a) allows the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminant source."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments on this rule since the last five-year review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule outlines emission limits that help to ensure that industrial facilities are operating properly and emitting the least possible pollution to protect human health and the environment. This rule is also part of the EPA enforceable SIP and cannot be deleted without EPA approval. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

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AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 02/05/2015

## Environmental Quality, Air Quality **R307-307** Road Salting and Sanding

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 39120  
 FILED: 02/05/2015

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Rule R307-307 sets limits on the sodium chloride, magnesium chloride, calcium chloride, and potassium chloride that may be included in salt used on roads. The limits are needed to reduce the particulate matter that is harmful to human health, and are one of the measures included in Utah's state implementation plan for PM10 and PM2.5. Subsection 19-2-104(1)(a) allows the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminant source."

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Rule R307-307 has been amended three times since the last five-year review with nonsubstantive changes in 2012 (DAR No. 36628), substantive changes in 2013 (DAR No. 36741), and nonsubstantive changes later in 2013 (DAR No. 37234). Comments were submitted in 2013 regarding the substantive changes being proposed. Those comments were from the Utah Department of Transportation and the Environmental Protection Agency. All comments were suggestions to improve the proposed amendments. No comments were submitted opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The limits in this rule are needed to reduce particulate matter, and are one of the measures included in Utah's State Implementation Plan for PM10 and PM2.5 and

cannot be deleted without EPA's approval. Therefore, the rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
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 SALT LAKE CITY, UT 84116-3085  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 02/05/2015

## Environmental Quality, Air Quality **R307-309** Nonattainment and Maintenance Areas for PM10 and PM2.5: Fugitive Emissions and Fugitive Dust

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 39121  
 FILED: 02/05/2015

### NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Rule R307-309 regulates the amount of dust and fugitive emissions that are allowed to leave the site of any source of air pollution. These regulations are part of the state implementation plan to control particulate matter in geographic areas where levels of pollution have exceeded federal health standards in the past; the plan is incorporated by reference under Section R307-110-10. The plan is required under the Clean Air Act, 42 USC 7410. Subsection 19-2-104(1) authorizes the Air Quality Board to make rules "(a) regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contamination that may be emitted by any air contaminant source"; and "(b) establishing air quality standards." Subsection 19-2-104(3)(q) authorizes the Board to make rules to "meet the requirements of federal air pollution laws."



**SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE:** The rule was amended once since the last five-year review (DAR No. 36483). During that public comment period several comments were submitted by the Environmental Protection Agency (EPA) and other interested stakeholders. Comments submitted were suggestions to improve the proposed amendments and to make the rule approvable by EPA. No comments opposing the rule have been submitted.

**REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY:** Rule R307-309 protects the public health by reducing emissions from industries, gravel pits, constructions sites, haul trucks, mines, and tailings ponds. In addition, Rule R307-309 is required under the State Implementation Plan (SIP) incorporated by reference under Section R307-110-10. Because the rule is part of the SIP, it cannot be deleted without EPA approval. Therefore, the rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

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195 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
♦ Mark Berger by phone at 801-536-4000, by FAX at 801-536-0085, or by Internet E-mail at mberger@utah.gov

AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 02/05/2015

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## Environmental Quality, Air Quality **R307-310**

### Salt Lake County: Trading of Emission Budgets for Transportation Conformity

#### **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 39122  
FILED: 02/05/2015

#### **NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS

ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-2-104(1)(a) allows the Air Quality Board to make rules "...regarding the control, abatement, and prevention of air pollution from all sources and the establishment of the maximum quantity of air contaminants that may be emitted by any air contaminant source." In addition, Subsection 19-2-104(3)(e) allows the Board to "...prepare and develop a comprehensive plan or plans for the prevention, abatement, and control of air pollution in this state." Rule R307-310 protects the public health by setting forth a mechanism to trade PM10 for NOx to demonstrate conformity with Salt Lake County PM10 SIP.

**SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE:** There have been no comments on this rule since the last five-year review.

**REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY:** Rule R307-310 establishes a conformity budget for Salt Lake County. This budget allows continued funding of transportation projects in Salt Lake County. Rule R307-310 is a component of Utah's State Implementation Plan and cannot be deleted without EPA's approval. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

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195 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
or at the Division of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
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AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 02/05/2015

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## Environmental Quality, Air Quality **R307-841**

### Residential Property and Child Occupied Facility Renovation

#### **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 39123  
FILED: 02/05/2015

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Rule R307-841 is one of three Air Quality rules that implements Subsection 19-2-104(1)(i) which authorizes the Air Quality Board to make rules to implement the lead-based paint requirements for training, certification, and performance of 15 USC 2601 et seq., Toxic Substances Control Act, Subchapter IV--Lead Exposure Reduction, Sections 402 and 406.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Rule R307-841 was newly promulgated on 04/04/2010. Since then it has undergone two nonsubstantive change filings. Since the rule was promulgated in 2010, there have been no comments submitted that either support or oppose the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-841 contains necessary requirements for Utah to have lead-based paint program regulatory oversight in Utah for renovation projects conducted in target housing and child-occupied facilities. Without Rule R307-841, Utah would not have authority to implement the federal requirements and implementation would be carried out by the Environmental Protection Agency. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

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195 N 1950 W  
SALT LAKE CITY, UT 84116-3085  
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DIRECT QUESTIONS REGARDING THIS RULE TO:

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AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 02/05/2015

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Environmental Quality, Air Quality  
**R307-842**  
Lead-Based Paint Activities

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 39124  
FILED: 02/05/2015

**NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Rule R307-842 is one of three Air Quality rules that implements Subsection 19-2-104(1)(i) which authorizes the Air Quality Board to make rules to implement the lead-based paint requirements for training, certification, and performance of 15 USC 2601 et seq., Toxic Substances Control Act, Subchapter IV--Lead Exposure Reduction, Sections 402 and 406.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: Rule R307-342 was newly promulgated on 04/04/2010. Since that date, the rule has been amended twice with nonsubstantive changes. Since the rule's promulgation in 2010, there have been no comments submitted either supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule R307-842 contains necessary requirements for Utah to have lead-based paint program regulatory oversight in Utah for renovation projects conducted in target housing and child-occupied facilities. Without Rule R307-842, Utah would not have authority to implement the federal requirements and implementation would be carried out by the Environmental Protection Agency. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

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or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

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AUTHORIZED BY: Bryce Bird, Director

EFFECTIVE: 02/05/2015

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**Environmental Quality, Water Quality  
R317-4  
Onsite Wastewater Systems**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 39106  
FILED: 02/03/2015

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is authorized under Title 19, Chapter 5. The statute authorizes protection of human health and the environment. This rule achieves that through regulation of the potential adverse effects from the disposal of onsite wastewater.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: A general revision of the rule, involving all outside stakeholders, was concluded with the adoption of a major revision on 09/01/2013. The revision considered comments to generally update the rule by adding new treatment technologies, refining the requirements for technologies existing in the rule, and generally improving the format of the rule. The Division, along with outside stakeholders, is presently in the process of fine tuning the 09/01/2013 version of the rule with a minor revision scheduled to be adopted in 2015. This revision is intended to correct any errors in the 2013 revision and install some minor technical upgrades.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides vital minimum standards and guidance to the local health departments for regulating the design, approval, construction, and maintenance of individual, onsite wastewater treatment and disposal systems. The rule is essential for regulation of all wastewater treatment and disposal for individual homes that do not have access to a public sewer system. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

ENVIRONMENTAL QUALITY  
WATER QUALITY  
DEQ, THIRD FLOOR  
195 N 1950 W  
SALT LAKE CITY, UT 84116  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Judy Etherington by phone at 801-536-4344, by FAX at 801-536-4301, or by Internet E-mail at jetherington@utah.gov

AUTHORIZED BY: Walter Baker, Director

EFFECTIVE: 02/03/2015

**Health, Disease Control and  
Prevention, Epidemiology  
R386-800  
Immunization Coordination**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 39108  
FILED: 02/05/2015

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule establishes an information system to collect, coordinate, and share immunization information among healthcare providers, health insurers, schools, daycare centers, and publicly-funded organizations to assure adequate immunization, to avoid unnecessary immunization, to meet statutory immunization requirements, and to control disease outbreaks. Authorized under Utah Code Title 26, Chapter 3, which allows the department to collect and maintain health data, and Title 26, Chapter 6, which allows the department to investigate and control infection and disease.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No written comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Rule continuation supports ongoing operation and maintenance of the Utah immunization information system (USIIS) used daily by public and private healthcare providers, schools, day care centers throughout the state in order to prevent vaccine-preventable diseases and improve the health of Utah citizens.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

HEALTH  
DISEASE CONTROL AND PREVENTION,

EPIDEMIOLOGY  
 CANNON HEALTH BLDG  
 288 N 1460 W  
 SALT LAKE CITY, UT 84116-3231  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Cristie Chesler by phone at 801-538-9465, by FAX at 801-538-9913, or by Internet E-mail at cchesler@utah.gov

AUTHORIZED BY: David Patton, PhD, Executive Director

EFFECTIVE: 02/05/2015

**Labor Commission, Boiler and Elevator  
 Safety  
 R616-4  
 Coal Mine Safety**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 39138  
 FILED: 02/12/2015

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: This rule is established pursuant to Section 40-2-104 and Subsection 40-2-301(2) (a)(b) of the Coal Mine Safety Act for the purpose of improving coal mine safety, preventing coal mine accidents, and improving coal mine emergency response plans.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: The Division has received no comments on this rule to date.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule is needed for the purpose of improving coal mine safety, preventing coal mine accidents, improving coal mine emergency response plans, and successfully implementing the intent of the Coal Mine Safety Act. The Division will accomplish this by examining coal mines, requiring accident notification, and ensuring emergency response training is held by the coal mines. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 LABOR COMMISSION  
 BOILER AND ELEVATOR SAFETY  
 HEBER M WELLS BLDG  
 160 E 300 S  
 SALT LAKE CITY, UT 84111-2316  
 or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Ami Windham by phone at 801-530-6850, by FAX at 801-530-6871, or by Internet E-mail at awindham@utah.gov  
 ♦ Pete Hackford by phone at 801-530-7605, by FAX at 801-530-6871, or by Internet E-mail at phackford@utah.gov

AUTHORIZED BY: Sherrie Hayashi, Commissioner

EFFECTIVE: 02/12/2015

**Natural Resources, Parks and  
 Recreation  
 R651-101  
 Adjudicative Proceedings**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 39139  
 FILED: 02/12/2015

**NOTICE OF REVIEW AND STATEMENT OF  
 CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Title 63G, Chapter 4, instructs agencies to have rules directing the process for adjudicative proceedings. This rule is in response to that requirement.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received either supporting or opposing this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Section 63G-4-102 requires that procedures and rules be in place governing adjudicative proceedings. This rule is in response to that requirement. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

NATURAL RESOURCES  
PARKS AND RECREATION  
ROOM 116  
1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

AUTHORIZED BY: Fred Hayes, Director

EFFECTIVE: 02/12/2015

**Natural Resources, Parks and  
Recreation  
R651-409**

**Minimum Amounts of Liability  
Insurance Coverage for an Organized  
Practice or Sanctioned Race**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 39140  
FILED: 02/12/2015

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Section 79-4-501, and Subsections 41-22-29(1)(a) 41-22-29(1)(b) are the statutes that govern this rule. The Division of Parks and Recreation is required to take action to protect state parks and park property from damage. This rule also protects those involved in a sanctioned race by requiring them to carry liability insurance at a minimum amount. It protects all persons providing services or who own lands affected by the activities conducted.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received either supporting or opposing this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE

RULE, IF ANY: The rule is statutorily required. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

NATURAL RESOURCES  
PARKS AND RECREATION  
ROOM 116  
1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

AUTHORIZED BY: Fred Hayes, Director

EFFECTIVE: 02/12/2015

**Natural Resources, Parks and  
Recreation  
R651-635**

**Commercial Use of Division Managed  
Park Areas**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**  
DAR FILE NO.: 39141  
FILED: 02/12/2015

**NOTICE OF REVIEW AND STATEMENT OF  
CONTINUATION**

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsections 79-2-402(4) and (5), Section 79-4-304, and Subsections 79-2-402(6), (7), and (8) govern this rule. The Utah State Parks and Recreation Board may make rules governing the state park system. This rule regulates the use of the state parks system and provides for proper use of the state parks natural and cultural resources and protects them from damage or misuse. It also protects private business partners that do business within the state park system.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received either supporting or opposing this rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The rule is statutorily required and allows for consistent use and protection of the state park system and provides that protection for state parks' private business partners doing business within the state park system as well. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

NATURAL RESOURCES  
PARKS AND RECREATION  
ROOM 116

1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Division of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at [tammywright@utah.gov](mailto:tammywright@utah.gov)

AUTHORIZED BY: Fred Hayes, Director

EFFECTIVE: 02/12/2015

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**End of the Five-Year Notices of Review and Statements of Continuation Section**

## NOTICES OF RULE EFFECTIVE DATES

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State law provides for agencies to make their administrative rules effective and enforceable after publication in the *Utah State Bulletin*. In the case of **PROPOSED RULES** or **CHANGES IN PROPOSED RULES** with a designated comment period, the law permits an agency to make a rule effective no fewer than seven calendar days after the close of the public comment period, nor more than 120 days after the publication date. In the case of **CHANGES IN PROPOSED RULES** with no designated comment period, the law permits an agency to make a rule effective on any date including or after the thirtieth day after the rule's publication date, but not more than 120 days after the publication date. If an agency fails to file a **NOTICE OF EFFECTIVE DATE** within 120 days from the publication of a **PROPOSED RULE** or a related **CHANGE IN PROPOSED RULE** the rule lapses.

Agencies have notified the Division of Administrative Rules that the rules listed below have been made effective.

**NOTICES OF EFFECTIVE DATE** are governed by Subsection 63G-3-301(12), Section 63G-3-303, and Sections R15-4-5a and R15-4-5b.

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### Abbreviations

AMD = Amendment

CPR = Change in Proposed Rule

NEW = New Rule

R&R = Repeal & Reenact

REP = Repeal

### Commerce

#### Real Estate

No. 38999 (AMD): R162-2c-201. Licensing and Registration Procedures

Published: 01/01/2015

Effective: 02/10/2015

### Education

#### Administration

No. 39007 (AMD): R277-497. School Grading System

Published: 01/01/2015

Effective: 02/09/2015

No. 39008 (AMD): R277-504. Early Childhood, Elementary, Secondary, Special Education (K-12), and Preschool Special Education (Birth-Age 5) Licensure

Published: 01/01/2015

Effective: 02/09/2015

### Environmental Quality

#### Air Quality

No. 38842 (AMD): R307-302. Solid Fuel Burning Devices in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah, and Weber Counties

Published: 10/01/2014

Effective: 02/04/2015

No. 38842 (CPR): R307-302. Solid Fuel Burning Devices in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah, and Weber Counties

Published: 01/01/2015

Effective: 02/04/2015

No. 38901 (AMD): R307-401-19. General Approval Order

Published: 11/01/2014

Effective: 02/05/2015

### Radiation Control

No. 38770 (AMD): R313-17-4. Special Procedures for Decisions Associated with Licenses for Uranium Mills and Disposal of Byproduct Material

Published: 09/01/2014

Effective: 02/17/2015

No. 38770 (CPR): R313-17-4. Special Procedures for Decisions Associated with Licenses for Uranium Mills and Disposal of Byproduct Material

Published: 12/15/2014

Effective: 02/17/2015

No. 38907 (AMD): R313-19. Requirements of General Applicability to Licensing of Radioactive Material

Published: 11/01/2014

Effective: 02/17/2015

### Health

#### Family Health and Preparedness, Licensing

No. 38982 (AMD): R432-2-6. Application

Published: 12/15/2014

Effective: 02/06/2015

Family Health and Preparedness, Maternal and Child Health  
No. 38802 (NEW): R433-1. Very Low Birth Weight Infant Reporting

Published: 09/15/2014

Effective: 02/12/2015

No. 38802 (CPR): R433-1. Very Low Birth Weight Infant Reporting

Published: 01/01/2015

Effective: 02/12/2015

NOTICES OF RULE EFFECTIVE DATES

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Natural Resources

Parks and Recreation

No. 39006 (AMD): R651-207. Registration Fee

Published: 01/01/2015

Effective: 02/11/2015

Wildlife Resources

No. 38996 (AMD): R657-5. Taking Big Game

Published: 01/01/2015

Effective: 02/09/2015

No. 38995 (AMD): R657-43. Landowner Permits

Published: 01/01/2015

Effective: 02/09/2015

Public Safety

Driver License

No. 39003 (NEW): R708-50. Vehicle Impound Fee

Reimbursement

Published: 01/01/2015

Effective: 02/09/2015

**End of the Notices of Rule Effective Dates Section**



**RULES INDEX  
BY AGENCY (CODE NUMBER)  
AND  
BY KEYWORD (SUBJECT)**

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The Rules Index is a cumulative index that reflects all effective changes to Utah's administrative rules. The current Index lists changes made effective from January 2, 2015 through February 17, 2015. The Rules Index is published in the Utah State Bulletin and in the annual Utah Administrative Rules Index of Changes. Nonsubstantive changes, while not published in the Bulletin, do become part of the Utah Administrative Code (Code) and are included in this Index, as well as 120-Day (Emergency) rules that do not become part of the Code. The rules are indexed by Agency (Code Number) and Keyword (Subject).

Questions regarding the index and the information it contains should be addressed to the Division of Administrative Rules (801-538-3764).

A copy of the **RULES INDEX** is available for public inspection at the Division of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Division's web site (<http://www.rules.utah.gov/>).

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**RULES INDEX - BY AGENCY (CODE NUMBER)**

**ABBREVIATIONS**

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<b>ADMINISTRATIVE SERVICES</b>					
<u>Purchasing and General Services</u>					
R33-1-1	Definitions	38974	AMD	01/28/2015	2014-24/4
R33-6-101	Competitive Sealed Bidding; Multiple Stage Bidding; Reverse Auction	38975	AMD	01/28/2015	2014-24/5
R33-7	Request for Proposals	38976	AMD	01/28/2015	2014-24/6
R33-12	Terms and Conditions, Contracts, Change Orders and Costs	38977	AMD	01/28/2015	2014-24/9
R33-16-401	Protest Officer May Correct Noncompliance, Errors and Discrepancies	38978	AMD	01/28/2015	2014-24/12
R33-26	State Surplus Property	39084	NSC	01/28/2015	Not Printed
<b>AGRICULTURE AND FOOD</b>					
<u>Animal Industry</u>					
R58-7	Livestock Markets, Satellite Video Livestock Auction Market, Livestock Sales, Dealers, and Livestock Market Weighpersons	39075	5YR	01/13/2015	2015-3/67
R58-11	Slaughter of Livestock and Poultry	39073	5YR	01/13/2015	2015-3/67
R58-17	Aquaculture and Aquatic Animal Health	39074	5YR	01/13/2015	2015-3/68
R58-21	Trichomoniasis	39086	5YR	01/21/2015	2015-4/37
<b>ALCOHOLIC BEVERAGE CONTROL</b>					
<u>Administration</u>					
R81-4E	Resort Licenses	39059	5YR	01/08/2015	2015-3/69
<b>COMMERCE</b>					
<u>Occupational and Professional Licensing</u>					
R156-17b	Pharmacy Practice Act Rule	39056	5YR	01/05/2015	2015-3/69
R156-31b-202	Advisory Peer Education Committee Created -- Membership - Duties	38981	AMD	01/22/2015	2014-24/13
R156-31b-609	Standards for Out-of-State Programs Providing Clinical Experiences in Utah	38980	AMD	01/22/2015	2014-24/14
R156-60a	Social Worker Licensing Act Rule	38979	AMD	01/22/2015	2014-24/15
R156-60d	Substance Use Disorder Counselor Act Rule	38964	AMD	01/22/2015	2014-24/17
<u>Real Estate</u>					
R162-2c-201	Licensing and Registration Procedures	38999	AMD	02/10/2015	2015-1/8
R162-2e-401	Unprofessional Conduct	38971	AMD	01/28/2015	2014-24/26
R162-2f-206	Certification of Continuing Education Course	38972	AMD	01/21/2015	2014-24/28
<u>Securities</u>					
R164-2	Investment Adviser - Unlawful Acts	39104	5YR	02/02/2015	2015-4/37

CORRECTIONS

<u>Administration</u>					
R251-303	Offenders' Use of Telephones	39060	5YR	01/08/2015	2015-3/70

EDUCATION

<u>Administration</u>					
R277-111	Sharing of Curriculum Materials by Public School Educators	39077	5YR	01/15/2015	2015-3/71
R277-419-9	Provisions for Maintaining Student Membership and Enrollment Documentation and Documentation of Student Education Services Provided by Third Party Vendors	39080	EMR	01/15/2015	2015-3/63
R277-487	Public School Data Confidentiality and Disclosure	38956	AMD	01/07/2015	2014-23/6
R277-497	School Grading System	39007	AMD	02/09/2015	2015-1/11
R277-504	Early Childhood, Elementary, Secondary, Special Education (K-12), and Preschool Special Education (Birth-Age 5) Licensure	39008	AMD	02/09/2015	2015-1/13

<u>Rehabilitation</u>					
R280-203	Certification Requirements for Interpreters for the Hearing Impaired	38930	AMD	01/02/2015	2014-22/22

ENVIRONMENTAL QUALITY

<u>Administration</u>					
R305-5	Health Reform - Health Insurance Coverage in DEQ State Contracts - Implementation	39135	5YR	02/09/2015	Not Printed

<u>Air Quality</u>					
R307-103	Administrative Procedures	39109	5YR	02/05/2015	Not Printed
R307-165	Emission Testing	39110	5YR	02/05/2015	Not Printed
R307-201	Emission Standards: General Emission Standards	39111	5YR	02/05/2015	Not Printed
R307-202	Emission Standards: General Burning	39113	5YR	02/05/2015	Not Printed
R307-203	Emission Standards: Sulfur Content of Fuels	39112	5YR	02/05/2015	Not Printed
R307-204	Emission Standards: Smoke Management	39114	5YR	02/05/2015	Not Printed
R307-205	Emission Standards: Fugitive Emissions and Fugitive Dust	39115	5YR	02/05/2015	Not Printed
R307-206	Emission Standards: Abrasive Blasting	39116	5YR	02/05/2015	Not Printed
R307-207	Residential Fireplaces and Solid Fuel Burning Devices	39117	5YR	02/05/2015	Not Printed
R307-302	Solid Fuel Burning Devices in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah, and Weber Counties	38842	AMD	02/04/2015	2014-19/44
R307-302	Solid Fuel Burning Devices in Box Elder, Cache, Davis, Salt Lake, Tooele, Utah, and Weber Counties	38842	CPR	02/04/2015	2015-1/48
R307-305	Nonattainment and Maintenance areas for PM10: Emission Standards	39118	5YR	02/05/2015	Not Printed
R307-306	PM10 Nonattainment and Maintenance Areas: Abrasive Blasting	39119	5YR	02/05/2015	Not Printed
R307-307	Road Salting and Sanding	39120	5YR	02/05/2015	Not Printed
R307-309	Nonattainment and Maintenance Areas for PM10 and PM2.5: Fugitive Emissions and Fugitive Dust	39121	5YR	02/05/2015	Not Printed
R307-310	Salt Lake County: Trading of Emission Budgets for Transportation Conformity	39122	5YR	02/05/2015	Not Printed
R307-401-19	General Approval Order	38901	AMD	02/05/2015	2014-21/16
R307-841	Residential Property and Child Occupied Facility Renovation	39123	5YR	02/05/2015	Not Printed
R307-842	Lead-Based Paint Activities	39124	5YR	02/05/2015	Not Printed

RULES INDEX

Radiation Control

R313-17-4	Special Procedures for Decisions Associated with Licenses for Uranium Mills and Disposal of Byproduct Material	38770	AMD	02/17/2015	2014-17/95
R313-17-4	Special Procedures for Decisions Associated with Licenses for Uranium Mills and Disposal of Byproduct Material	38770	CPR	02/17/2015	2014-24/40
R313-19	Requirements of General Applicability to Licensing of Radioactive Material	38907	AMD	02/17/2015	2014-21/18

Water Quality

R317-4	Onsite Wastewater Systems	39106	5YR	02/03/2015	Not Printed
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GOVERNOR

Criminal and Juvenile Justice (State Commission on)

R356-1	Procedures for the Calculation and Distribution of Funds to Reimburse County Correctional Facilities Housing State Probationary Inmates or State Parole Inmates	39053	EXT	01/02/2015	2015-3/75
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Energy Development (Office of)

R362-3	Energy Efficiency Fund	38931	AMD	01/07/2015	2014-22/24
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HEALTH

Disease Control and Prevention, Epidemiology

R386-800	Immunization Coordination	39108	5YR	02/05/2015	Not Printed
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Family Health and Preparedness, Licensing

R432-2-6	Application	38982	AMD	02/06/2015	2014-24/33
R432-35	Background Screening -- Health Facilities	38954	AMD	01/27/2015	2014-23/23

Family Health and Preparedness, Maternal and Child Health

R433-1	Very Low Birth Weight Infant Reporting	38802	NEW	02/12/2015	2014-18/20
R433-1	Very Low Birth Weight Infant Reporting	38802	CPR	02/12/2015	2015-1/50

Health Care Financing, Coverage and Reimbursement Policy

R414-11	Podiatric Services	38952	AMD	01/13/2015	2014-23/22
R414-310-7	Household Composition and Income Provisions	38984	AMD	02/01/2015	2014-24/32

HERITAGE AND ARTS

Arts and Museums

R451-3	Capital Funds Request Prioritization	39096	EXD	01/28/2015	2015-4/41
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Library

R458-3	Capital Funds Request Prioritization	39097	EXD	01/28/2015	2015-4/41
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HUMAN SERVICES

Substance Abuse and Mental Health

R523-8	Evidence-Based Prevention Registry	38917	NEW	01/06/2015	2014-22/33
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INSURANCE

Administration

R590-130-7	Advertisements of Benefits Payable, Losses Covered or Premiums Payable	39029	NSC	01/15/2015	Not Printed
R590-142	Continuing Education Rule	38934	AMD	01/12/2015	2014-23/25
R590-173	Credit For Reinsurance	39030	NSC	01/15/2015	Not Printed
R590-194	Coverage of Dietary Products for Inborn Errors of Amino Acid or Urea Cycle Metabolism	39038	NSC	01/15/2015	Not Printed
R590-226-14	Responses	39031	NSC	01/15/2015	Not Printed
R590-244	Individual and Agency Licensing Requirements	38935	AMD	01/12/2015	2014-23/31

JUDICIAL CONDUCT COMMISSION

Administration

R595-1	General Provisions	39048	5YR	01/02/2015	2015-3/71
R595-2	Administration	39049	5YR	01/02/2015	2015-3/72
R595-3	Procedure	39050	5YR	01/02/2015	2015-3/72
R595-4	Sanctions	39051	5YR	01/02/2015	2015-3/73

LABOR COMMISSION

Boiler and Elevator Safety

R616-4	Coal Mine Safety	39138	5YR	02/12/2015	Not Printed
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NATURAL RESOURCES

Forestry, Fire and State Lands

R652-160	Department of Natural Resources Wilderness Rules	38942	NEW	01/27/2015	2014-23/36
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Parks and Recreation

R651-101	Adjudicative Proceedings	39139	5YR	02/12/2015	Not Printed
R651-207	Registration Fee	39006	AMD	02/11/2015	2015-1/25
R651-214	Temporary Registration	38970	AMD	01/22/2015	2014-24/34
R651-223	Vessel Accident Reporting	39090	5YR	01/23/2015	2015-4/38
R651-409	Minimum Amounts of Liability Insurance Coverage for an Organized Practice or Sanctioned Race	39140	5YR	02/12/2015	Not Printed
R651-412	Curriculum Standards for OHV Education Programs Offered by Non-Division Entities	39088	5YR	01/22/2015	2015-4/38
R651-634	Nonresident OHV User Permits and Fees	39089	5YR	01/22/2015	2015-4/39
R651-635	Commercial Use of Division Managed Park Areas	39141	5YR	02/12/2015	Not Printed

Wildlife Resources

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R657-43	Landowner Permits	38995	AMD	02/09/2015	2015-1/33
R657-69	Turkey Depredation	38949	AMD	01/08/2015	2014-23/39

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R722-330	Licensing of Private Investigators	38947	AMD	01/07/2015	2014-23/40
R722-330	Licensing of Private Investigators	39058	5YR	01/07/2015	2015-3/74

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PUBLIC SERVICE COMMISSION

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R746-341-5	Duties of ETCs	38936	AMD	01/07/2015	2014-23/43
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R986-700-775	High Quality School Readiness Grant Program	38939	AMD	01/29/2015	2014-23/46

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**ABBREVIATIONS**

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

KEYWORD AGENCY	FILE NUMBER	CODE REFERENCE	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
<u>abrasive blasting</u>					
Environmental Quality, Air Quality	39116	R307-206	5YR	02/05/2015	Not Printed
	39119	R307-306	5YR	02/05/2015	Not Printed
<u>accidents</u>					
Natural Resources, Parks and Recreation	39090	R651-223	5YR	01/23/2015	2015-4/38
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Environmental Quality, Radiation Control	38770	R313-17-4	AMD	02/17/2015	2014-17/95
	38770	R313-17-4	CPR	02/17/2015	2014-24/40
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Environmental Quality, Air Quality	39109	R307-103	5YR	02/05/2015	Not Printed
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	38770	R313-17-4	CPR	02/17/2015	2014-24/40
Natural Resources, Parks and Recreation	39139	R651-101	5YR	02/12/2015	Not Printed
<u>administrative proceedings</u>					
Commerce, Real Estate	38971	R162-2e-401	AMD	01/28/2015	2014-24/26
Environmental Quality, Air Quality	39109	R307-103	5YR	02/05/2015	Not Printed
<u>air pollution</u>					
Environmental Quality, Air Quality	39109	R307-103	5YR	02/05/2015	Not Printed
	39110	R307-165	5YR	02/05/2015	Not Printed
	39111	R307-201	5YR	02/05/2015	Not Printed
	39113	R307-202	5YR	02/05/2015	Not Printed
	39112	R307-203	5YR	02/05/2015	Not Printed
	39115	R307-205	5YR	02/05/2015	Not Printed
	39116	R307-206	5YR	02/05/2015	Not Printed
	38842	R307-302	AMD	02/04/2015	2014-19/44
	38842	R307-302	CPR	02/04/2015	2015-1/48
	39118	R307-305	5YR	02/05/2015	Not Printed
	39119	R307-306	5YR	02/05/2015	Not Printed
	39120	R307-307	5YR	02/05/2015	Not Printed
	39121	R307-309	5YR	02/05/2015	Not Printed
	39122	R307-310	5YR	02/05/2015	Not Printed
	38901	R307-401-19	AMD	02/05/2015	2014-21/16
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Environmental Quality, Air Quality	39114	R307-204	5YR	02/05/2015	Not Printed

<u>alcoholic beverages</u>						
Alcoholic Beverage Control, Administration	39059	R81-4E	5YR	01/08/2015	2015-3/69	
<u>alternative onsite wastewater systems</u>						
Environmental Quality, Water Quality	39106	R317-4	5YR	02/03/2015	Not Printed	
<u>appraisal management company</u>						
Commerce, Real Estate	38971	R162-2e-401	AMD	01/28/2015	2014-24/26	
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Agriculture and Food, Animal Industry	39074	R58-17	5YR	01/13/2015	2015-3/68	
<u>background screening</u>						
Health, Family Health and Preparedness, Licensing	38954	R432-35	AMD	01/27/2015	2014-23/23	
<u>bail bond recovery licenses</u>						
Public Safety, Criminal Investigations and Technical Services, Criminal Identification	39057	R722-310	5YR	01/07/2015	2015-3/73	
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Transportation, Operations, Traffic and Safety	39095	R920-4	EMR	01/29/2015	2015-4/33	
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Natural Resources, Wildlife Resources	38996	R657-5	AMD	02/09/2015	2015-1/26	
	38995	R657-43	AMD	02/09/2015	2015-1/33	
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Natural Resources, Parks and Recreation	39006	R651-207	AMD	02/11/2015	2015-1/25	
	38970	R651-214	AMD	01/22/2015	2014-24/34	
	39090	R651-223	5YR	01/23/2015	2015-4/38	
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<u>Canine Body Armor Restricted Account</u>						
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Heritage and Arts, Library	39097	R458-3	EXD	01/28/2015	2015-4/41	
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Agriculture and Food, Animal Industry	39086	R58-21	5YR	01/21/2015	2015-4/37	
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Governor, Energy Development (Office of)	38931	R362-3	AMD	01/07/2015	2014-22/24	
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	38842	R307-302	AMD	02/04/2015	2014-19/44	
	38842	R307-302	CPR	02/04/2015	2015-1/48	
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	38976	R33-7	AMD	01/28/2015	2014-24/6	
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	38954	R432-35	AMD	01/27/2015	2014-23/23	
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	38770	R313-17-4	CPR	02/17/2015	2014-24/40	
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<u>impound fee reimbursement</u>						
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Natural Resources, Parks and Recreation	39140	R651-409	5YR	02/12/2015	Not Printed	
<u>insurance continuing education</u>						
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<u>insurance law</u>						
Insurance, Administration	39029	R590-130-7	NSC	01/15/2015	Not Printed	
	39038	R590-194	NSC	01/15/2015	Not Printed	
<u>insurance licensing requirements</u>						
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<u>investment advisers</u>						
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<u>jail reimbursement</u>						
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<u>Judicial Conduct Commission</u>						
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Environmental Quality, Air Quality	39124	R307-842	5YR	02/05/2015	Not Printed	

<u>lead-based paint renovation</u>						
Environmental Quality, Air Quality	39123	R307-841	5YR	02/05/2015	Not Printed	
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Natural Resources, Parks and Recreation	39140	R651-409	5YR	02/12/2015	Not Printed	
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	38981	R156-31b-202	AMD	01/22/2015	2014-24/13	
	38980	R156-31b-609	AMD	01/22/2015	2014-24/14	
	38979	R156-60a	AMD	01/22/2015	2014-24/15	
	38964	R156-60d	AMD	01/22/2015	2014-24/17	
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Insurance, Administration	39031	R590-226-14	NSC	01/15/2015	Not Printed	
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	39073	R58-11	5YR	01/13/2015	2015-3/67	
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	38984	R414-310-7	AMD	02/01/2015	2014-24/32	
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Environmental Quality, Air Quality	39113	R307-202	5YR	02/05/2015	Not Printed	
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	39088	R651-412	5YR	01/22/2015	2015-4/38	
	39089	R651-634	5YR	01/22/2015	2015-4/39	
	39141	R651-635	5YR	02/12/2015	Not Printed	
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	39116	R307-206	5YR	02/05/2015	Not Printed	
	39118	R307-305	5YR	02/05/2015	Not Printed	
	39119	R307-306	5YR	02/05/2015	Not Printed	
	39122	R307-310	5YR	02/05/2015	Not Printed	
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Environmental Quality, Air Quality	39118	R307-305	5YR	02/05/2015	Not Printed	
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Agriculture and Food, Animal Industry	39073	R58-11	5YR	01/13/2015	2015-3/67	
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Health, Health Care Financing, Coverage and Reimbursement Policy	38984	R414-310-7	AMD	02/01/2015	2014-24/32	
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<u>roads</u> Environmental Quality, Air Quality	39120	R307-307	5YR	02/05/2015	Not Printed
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