

# UTAH STATE BULLETIN

OFFICIAL NOTICES OF UTAH STATE GOVERNMENT  
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Nancy L. Lancaster, Managing Editor

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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: Office of Administrative Rules, PO Box 141007, Salt Lake City, Utah 84114-1007, telephone 801-538-3003. Additional rulemaking information and electronic versions of all administrative rule publications are available at <https://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 <https://rules.utah.gov> for additional information.

Office of Administrative Rules, Salt Lake City 84114

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## 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 August 02, 2017, 12:00 a.m., and August 15, 2017, 11:59 p.m. are included in this, the September 01, 2017, 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 Rules being repealed are completely struck out.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 Office 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 Office 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 October 2, 2017. 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 December 30, 2017, the agency may notify the Office 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 Office 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**

## Commerce, Occupational and Professional Licensing

### R156-5a

## Podiatric Physician Licensing Act Rule

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 41999

FILED: 08/03/2017

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The Division of Occupational and Professional Licensing and the Podiatric Physician Licensing Board reviewed the rule and are proposing the following amendments. Section R156-5a-102 is amended to update definitions in the rule. Section R156-5a-302a is amended to make changes mandated by H.B. 167, passed during the 2017 General Session. H.B. 167 amended Section 58-5a-302 to allow licensure for podiatric physician residents who have not yet completed a second year post-graduate resident training, but who are currently successfully enrolled in a second or third year residency in an approved program in Utah. Section R156-5a-302b is amended to correct references to the examinations required for licensure as a podiatric physician.

**SUMMARY OF THE RULE OR CHANGE:** In Section R156-5a-102, the proposed amendments: 1) remove the definition of "recognized residency program", because the term is no longer used in the rule or statute; and 2) add the definition of "CPME", which means the Council on Podiatric Medical Education. In Section R156-5a-302a, in accordance with Section 58-5a-302, as amended by H.B. 167 (2017), the proposed amendments delete the now-obsolete two-year post-graduate training requirement for licensure as a podiatric physician, and specify how the applicant shall satisfy the Division and the Podiatric Physician Board that the applicant meets the new Section 58-5a-302 resident training requirements. Briefly, the applicant must complete and sign the Verification of Post-Graduate Training contained in the Division's podiatric physician license application, and, if the applicant has not yet completed a second year of post-graduate resident training, the applicant must also complete and sign the newly added Affidavit of Current Utah Post-Graduate Resident Training. In Section R156-5a-302b, the proposed amendments: 1) correct the statutory references regarding the examination requirements for licensure as a podiatric physician; 2) delete an obsolete reference to the "PMLexis Exam"; and 3) clarify that the examinations required to be passed for licensure are Part I, Part II written, Part II CSPE, and Part III of the American Podiatric Medical Licensing Examination (APMLE), developed by the National Board of Podiatric Medical Examiners (NBPME).

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 58-5a-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

### ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The newly required affidavit to be completed and signed by the license applicant will be included in the regular application process, and it is a simple statement that should require no questions from the applicant and will only take an estimated additional two minutes of the applicant's time. The additional cost to the Division for the time required to amend the application is approximately \$150 to amend the application in manual and electronic forms. The Division will incur minimal costs of approximately \$75 to print and distribute the rule once the proposed amendments are made effective.

◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or savings to local governments from any of the proposed amendments. The substantive changes will only affect podiatric physician residents applying for licensure in Utah, and health care providers who work with those residents; local governments neither enforce nor are affected by the modified time frames and application process.

◆ **SMALL BUSINESSES:** The proposed amendments to Sections R156-5a-102 and R156-5a-302b will have no fiscal impact on small business because the updated definitions and corrected references only clarify existing practice. The Division's fiscal analysis of the amendments to Section R156-5a-302a confirms that there is not a measurable cost or savings to small business as a result of these changes. These amendments merely conform the rule to amended Section 58-5a-302, adjusting the time frames and application process for podiatric physician license applicants who have not yet completed the second year of post-graduate training. The rule will require an applicant to complete and sign an affidavit as a part of the updated application process, to satisfy the division and board that the applicant has complied with the requirements of amended Section 58-5a-302; however, this affidavit will not require any business input, and it will only take an estimated two minutes for the applicant to complete. Further, the Podiatric Physician Licensing Board determined that these rule changes will not affect small business because the number of applicants enrolled in residencies and working with existing podiatric physicians and other health care providers will not change, nor will the services provided change. Post-graduate residents work in clinics affiliated with residency programs and are only paid a stipend; their work is reimbursed based on insurance formularies and reimbursement contracts. In sum, after conducting a thorough analysis, it was determined that the proposed amendments will not result in a fiscal impact to small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The proposed amendments to Sections R156-5a-102 and R156-5a-302b will have no measurable fiscal impact on other persons because the updated definitions and corrected

references only clarify existing practice. The proposed amendments to Section R156-5a-302a will affect podiatric physician residents granted a Utah license, and the health service providers who work with or employ these residents. However, the Division and the Podiatric Physician Licensing Board have determined that these changes will have no measurable fiscal impact on these other persons. The newly required affidavit to be completed and signed by a license applicant is simple and will only take an estimated two minutes to complete. The amendments make no other changes: Resident podiatric physicians who become licensed will still be required by Utah resident programs to complete three years of residency, and they will still be held to scheduled rotations and cannot earn additional income by "moonlighting" in the profession. They will still work in clinics affiliated with residency programs and will only be paid a stipend, with their work reimbursed based on insurance formularies and reimbursement contracts. Accordingly, it was determined that the changes will not have a measurable fiscal impact on other persons.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** An analysis of the amendments to this rule has determined that they will not result in compliance costs for affected persons or entities. As described above, this rule changes a qualifying applicant's time frame and application process for licensure in compliance with H.B. 167 (2017), but these amendments will not measurably impact an applicant's funding, income, fees, nor will they change the funding, revenue, fees, or costs for a licensee or health care provider.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** Section R156-5a-102 is amended to update definitions in the rule and has no fiscal impact. Section R156-5a-302a is amended to make changes mandated by H.B. 167 (2017). H.B. 167 amended Section 58-5a-302 to allow licensure for podiatric physician residents who have not yet completed a second year post-graduate resident training, but who are currently successfully enrolled in a second or third year residency in an approved program in Utah. These amendments will have no fiscal impact to small business. Section R156-5a-302b is amended to correct references to the examinations required for licensure as a podiatric physician, and has no fiscal impact.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Larry Marx by phone at 801-530-6254, by FAX at 801-530-6511, or by Internet E-mail at lmarx@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/02/2017

THIS RULE MAY BECOME EFFECTIVE ON: 10/09/2017

AUTHORIZED BY: Mark Steinagel, Director

**R156. Commerce, Occupational and Professional Licensing.  
R156-5a. Podiatric Physician Licensing Act Rule.**

**R156-5a-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 5a, as used in Title 58, Chapters 1 and 5a or this rule:

(1) ~~["Recognized residency program" as used in Subsection 58-5a-302(5) means a residency program that is accredited by the Council on Podiatric Medical Education.]~~ "CPME" means the Council on Podiatric Medical Education.

(2) "Recognized school" as used in Subsection 58-5a-306(2) means a school that is accredited by the Council on Podiatric Medical Education.

**R156-5a-302a. Qualifications for Licensure - Education Requirements.**

~~[In accordance with Subsections 58-1-203(1) and 58-1-301(3), the postgraduate training requirement for licensure in Section 58-5a-302 is established as successful completion of at least two years of postgraduate training in a residency program that, at the time of training, was accredited by the Council on Podiatric Medical Education of the American Podiatric Medical Association.]~~

In accordance with Subsections 58-5a-302(5)(b)(ii) and (iii), an applicant shall complete and sign the affidavit of current Utah post-graduate resident training contained in the Division's podiatric physician license application, to satisfy the Division and board that the applicant:

(1) has been accepted in and is successfully participating in a CPME-approved progressive resident training program within Utah; and

(2) has agreed to the required automatic revocation and surrender of the applicant's license if the applicant fails to continue in good standing in that program.

**R156-5a-302b. Qualifications for Licensure - Examination Requirements.**

~~[(1)]~~In accordance with Subsections 58-1-203(1) and [58-1-301(3)]58-5a-302(6), the examinations required to be passed for licensure [under Section 58-5a-302]are [:] Part I, Part II written, Part II CSPE, and Part III of the American Podiatric Medical Licensing Examination (APMLE), developed by

~~[(a)]~~the National Board of Podiatric Medical Examiners examination (NBPME);~~or~~

~~[(b)]~~the Podiatric Medicine Licensing examination (PMLexis)].

**KEY: licensing, podiatrists, podiatric physician**

**Date of Enactment or Last Substantive Amendment: [February 7,]2017**

**Notice of Continuation: September 16, 2013**

**Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-5a-101**

**Commerce, Occupational and  
Professional Licensing  
R156-11a  
Barber, Cosmetologist/Barber,  
Esthetician, Electrologist, and Nail  
Technician Licensing Act Rule**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 42018

FILED: 08/14/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** These amendments are filed to: 1) make minor formatting changes for clarification; 2) establish additional fine schedules for certain unlawful conduct, including changes to conform with provisions of S.B. 145, passed during the 2017 General Session (regarding nail salon source capture systems); and 3) implement changes mandated by H.B. 287, passed during the 2017 General Session (which created new licensing categories for a hair designer, hair designer instructor, and hair design school, and which modified the name of the Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act).

**SUMMARY OF THE RULE OR CHANGE:** Minor formatting changes are made throughout for clarification. In Section R156-11a-101, the proposed amendments change the rule's title to conform with the new Act name, from the "Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician Licensing Act Rule," to the "Cosmetology and Associated Professions Licensing Act Rule." In Section R156-11a-102, the proposed amendments modify citations throughout this section to conform to the other changes made in the rule. In Section R156-11a-302a, the proposed amendments mandate the required examinations for licensure as a hair designer and licensure as a hair designer instructor. In Section R156-11a-302b, the proposed amendments provide foreign school education/credential evaluation standards for the new category of "hair design school" (by adding the new hair design school category to existing foreign school equivalency requirements). In Section R156-11a-302c, the proposed amendments make formatting changes for clarification. In Section R156-11a-502, the proposed amendments provide definitions of unprofessional conduct for the new category of "hair design school" (by adding the hair design school category to existing definitions of unprofessional conduct). In the new Subsections R156-11a-503(4), (5), and (6), the proposed amendments add a

fine schedule for the following unlawful conduct: 1) performing an ablative procedure in violation of the statute (first offense \$1,000, second offense \$2,000); 2) failing as an instructor to give notice to each unlicensed attendee that the education provided is insufficient to qualify the attendee to perform the subject service for compensation, and that the unlicensed attendee must obtain licensure before performing the service for compensation (first offense \$500, second offense \$1,000); and 3) failing as a salon or school where nail technology is practiced or taught, to maintain the source capture system as required by statute (first offense \$500, second offense \$1,000). In Section R156-11a-601, the proposed amendments establish accreditation standards for the new category of "hair design school" (by adding the hair design school category to existing accreditation standards). The standards were also rewritten for clarity. In Section R156-11a-602, the proposed amendments establish standards for the physical facilities of a hair design school (by adding the hair design school category to existing school physical facilities standards). In Section R156-11a-603, the proposed amendments establish standards for a student kit for a hair design school (by adding the hair design school category to existing student kit standards). In Section R156-11a-604, the proposed amendments establish standards for the physical facilities of a hair design school that prohibit operation of the school jointly with a barbershop, salon, or spa (by adding the hair design school category to existing school standards). In Section R156-11a-605, the proposed amendments establish standards for the protection of students of a hair design school (by adding the hair design school category to existing school standards). In Section R156-11a-606, the proposed amendments establish standards for the protection of a hair design school (by adding the hair design school category to existing school standards). In Section R156-11a-607, the proposed amendments establish standards for a written contract for students of a hair design school (by adding the hair design school category to existing school standards). In Section R156-11a-608, the proposed amendments establish staff requirements for a hair design school (by adding the hair design school category to existing school standards). In Section R156-11a-609, the proposed amendments establish standards for instructors of a hair design school (by adding the hair design school category to existing school instructor standards). In Sections R156-11a-610, R156-11a-611, R156-11a-612, R156-11a-700, R156-11a-701, R156-11a-702, R156-11a-703, R156-11a-704, and R156-11a-705, minor formatting changes are made throughout these sections for clarification. In Section R156-11a-706, the proposed amendments establish the required curriculum for hair design schools. In Section R156-11a-707, the proposed amendments establish the required curriculum for a hair design instructor school (by adding the hair design school category to existing instructor school standards). In Sections R156-11a-800, R156-11a-801, R156-11a-802, R156-11a-803, and R156-11a-804, minor formatting changes are made throughout these sections for clarification. In Section R156-11a-902, the proposed amendments establish standards for



an employee of a hair design school to obtain on-the-job training to become a licensed instructor (by adding the hair design school category to existing standards).

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 58-11a-101 and Subsection 58-1-106(1)(a) and Subsection 58-1-202(1)(a)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** First, no fiscal impact is anticipated to the state from any of the formatting changes. Second, the bulk of the proposed amendments are made in accordance with H.B. 287 (2017), which added new license classifications for hair designer, hair designer instructor, and hair design schools, and required the Division to issue rules to implement licensing. Because it is unknown how many individuals or schools will apply for the new licenses, it is difficult to estimate the costs or savings to the Division from filing these proposed amendments, as the costs or savings will vary depending on circumstances. However, the Division's proposed fiscal note for H.B. 287 (2017), which was not funded, estimated approximately \$2,700 in costs to the Division, including approximately \$30 to process each additional instructor application. Third, the Division estimates that the amendments establishing a fine schedule for certain unlawful conduct under Subsections R156-11a-503(4), (5), and (6) may have a positive fiscal impact on the Division of approximately \$13,750 per year. Historically, a review of these offenses occurring in the past year shows that five or fewer offenses would be sanctioned under Subsection R156-11a-503(4) (violation in performing ablative procedure), five or fewer offenses would be sanctioned under Subsection R156-11a-503(5) (instructor failing to notify), and ten or fewer offenses would be sanctioned under Subsection R156-11a-503(6) (failure to maintain source capture system). Under the proposed amendments, this could translate to an estimated \$16,500 in fines received by the Division per year, revenue from which would be deposited into the Cosmetology and Associated Professions Education and Enforcement Fund (the "E&E Fund"). In turn, there would be corresponding average costs to the Division of approximately \$2,750 for FTEs and operating expenses required to administer the fines and handle any appeals. These costs would be paid out of the E&E Fund, to the extent the additional revenue generated would cover these costs. Finally, the state will incur a cost of approximately \$75 to print the new rules.

◆ **LOCAL GOVERNMENTS:** Review of the amendments to this rule confirms that none of these changes will result in any additional cost or savings to local government. Local governments neither enforce nor are affected by the application processes and requirements implemented by these rules. Nor will local governments be indirectly impacted because none of the amendments create a situation requiring services from local governments. Therefore, no cost or savings to local government are anticipated.

◆ **SMALL BUSINESSES:** First, no fiscal impact is anticipated to small business from any of the proposed formatting changes, because all such changes merely simplify the rule and clarify existing industry practices. Second, the proposed

amendments establishing a fine schedule for unlawful conduct under Subsection R156-11a-503(6) (failing as a nail salon or school to maintain the source capture system as required by statute) will not result in a measurable fiscal impact to small business. The Division's review indicates that an estimated ten licensees could be sanctioned per year for a first offense, with a maximum fine of \$500, and one licensee sanctioned for a second offense, with a maximum fine of \$1,000; this could result in estimated total ongoing citation costs of \$6,000 annually. However, the impact of these fines cannot and should not be scaled to all small business nail salons and schools, as they will never affect the overwhelming majority of small businesses who meet the normal standards of their profession and will never be assessed a fine. Stated another way, the nature of the misconduct proposed to be codified in the amended rule is such that the impact of the corresponding fines will never be uniformly felt across the industry. Furthermore, based on the Division's historical review, a licensee sanctioned for misconduct is extremely unlikely to be fined again in succeeding years. This analysis is supported by the fiscal note attached to S.B. 145 (2017), which estimated that enactment of the legislation "likely would not result in direct, measurable expenditures by Utah residents or businesses". In short, after conducting a thorough analysis, the Division has determined that the scope of these proposed amendments is so narrow that they will not affect the vast majority of small business, and will not result in a measurable fiscal impact to small business. Third, the new licensing classifications established by H.B. 287 (2017) for a hair designer, hair designer instructor, and hair design school, could have a positive fiscal impact on small business in two ways: 1) a hair design school established under these new rules may generate revenue from students enrolled in the school; and 2) hair designers and hair designer instructors licensed in accordance with these rules may generate revenue by engaging in a new business. The Division estimates that these proposed rules themselves will not have any fiscal impact on small business over and above this impact from the underlying legislation, except for the choice made to implement the requirements for these classifications and course requirements in as cost-effective a manner as possible. The Division, in collaboration with businesses in the industry, estimates that the start-up costs to add a new hair designer program in accordance with these new rules will be approximately \$10,000. This includes accreditation fees and administrative expenditures. It also includes substantial savings on expenses because under these rules the need to comply with expanded cosmetologist/barber license requirements will be unnecessary, and most if not all schools will already have many of the required program features in place. Although it is unknown how many businesses will choose to commence hair designer courses, it is expected that at least most of the schools will have no difficulty in funding these up-front costs and attracting students to cover them. Input from businesses in the industry indicates that the average tuition they will charge for a hair designer license course will range from \$10,000 to \$12,000 per student, plus an additional \$1,300 for the student kit.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: None of the proposed rule changes are expected to impact large businesses; the division is unaware of any current schools or spas employing more than 50 individuals, and the division does not expect any new hair design school to be large enough to employ 50 or more persons. As far as individual licensees, first, the proposed amendments establishing a fine schedule for unlawful conduct under Subsections R156-11a-503(4) (performing an ablative procedure in violation of statute) and R156-11a-503(5) (instructor failing to give notice), is not expected to result in a measurable fiscal impact for these other persons. The division's analysis indicates that under Subsection R156-11a-503(4), an estimated five licensees could be sanctioned yearly for a first offense, with a maximum fine of \$1,000, and one licensee sanctioned for a second offense with a maximum fine of \$2,000, resulting in estimated aggregate ongoing citation costs of \$7,000 annually. In turn, under Subsection R156-11a-503(5), an estimated five licensees could be sanctioned per year for a first offense, with a maximum fine of \$500, and one licensee sanctioned for a second offense, with a maximum fine of \$1,000, resulting in estimated aggregate ongoing citation costs of \$3,500 annually. However, the division's analysis indicates that these fines will never impact the overwhelming majority of individuals in the industry who will never be assessed a fine, and further, based on the Division's historical review these sanctioned individuals are highly unlikely to be fined in succeeding years. This analysis is supported by S.B. 145's fiscal note, which found that enactment of the legislation likely would not result in direct, measurable expenditures by Utah residents. Therefore, after conducting a thorough analysis the division has determined that the scope of these proposed amendment is so narrow that it will not affect the vast majority of individual licensees and will not result in a measurable fiscal impact to these other persons. Second, the new hair designer courses implemented under these proposed rules is expected to save individual license applicants time and money by allowing them to enroll in a 1,200 hour course, rather than completing 1,600 hours for a full cosmetology/barber course. The average tuition for a full cosmetology/barber course with student kit is currently \$18,700; in contrast, the average tuition for the hair design course is expected to be \$12,300 with the student kit, which would translate into a cost savings of \$6,400 per licensee. It is difficult to estimate the aggregate cost savings to licensees because the number of students who will ultimately enroll in the new hair designer courses is unknown; the division's outreach to the potential hair design schools and discussions with other persons in the industry reveals uncertainty about what the future student choices will be. The fiscal note for H.B. 287 (2017) estimated that enactment of the bill would result in 100 new hair designer licensees. However, the number of individuals licensed from year to year is expected to be much greater than 100, because of input from schools and licensees in the industry anticipating that approximately 25% of prospective cosmetologist/barber students and 50% of prospective barber students will choose to instead pursue

a hair designer license. Therefore, the best estimate is that, based on the figures from the fiscal note and the number of new cosmetologist/barber and barber licenses issued from June 2016 through June 2017, an average of 609 hair designer licenses may be issued per year. Based on these percentages, an estimated 432 individuals would have sought a cosmetology/barber license but for the availability of this new hair designer license. Accordingly, total aggregate savings for individual applicants is expected to be \$2,764,800 per year. Finally, the proposed amendments remove the division's \$60 application fee for individuals holding an instructor license who apply for an additional instructor license. It is estimated that approximately 38 licensees per year could potential save \$60, for an estimated aggregate total savings to these other persons of \$2,280 per year. Division records currently show 76 individual instructors with two or more instructor licenses, and from 05/09/2017, through the date of this analysis, two instructor licenses have already been issued for which the fee was waived due to another instructor license already held by the licensee.

COMPLIANCE COSTS FOR AFFECTED PERSONS: H.B. 287 (2017) provides three new license classifications. An applicant for a hair designer license will incur a \$60 application fee, and a bi-annual renewal fee of \$52. An applicant for a hair design school will incur a \$110 application fee and bi-annual renewal fee. An applicant for a hair designer instructor will incur a \$60 application fee if the individual does not hold any other instructor license.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: Minor formatting amendments are made throughout most sections of R156-11a for clarification. Substantive amendments: 1) establish additional fine schedules for certain unlawful conduct (including changes to conform with provisions of S.B. 45, passed during the 2017 General Session); 2) create new licensing categories for a hair designer, hair designer instructor and hair design school (as mandated by H.B. 287, passed during the 2017 General Session); and 3) modify the name of the rule to the shortened "Cosmetology and Associated Professions Licensing Act Rule". No fiscal impact to business will result from the formatting amendments and the change of the name of the rule. The proposed amendments establishing a fine schedule for unlawful conduct under Subsections R156-11a-503(1)(d), (e) and (f) (as renumbered and lettered by the formatting changes), will not result in measurable fiscal impact to small business as a whole, and will merely impact those few businesses which are not in compliance with the rule. Further, and based upon the Division's historical review, a licensee sanctioned for misconduct is extremely unlikely to be fined again in a succeeding year (i.e. second offense fines are rare). The new licensing classifications established by H.B. 287 (2017) will likely have a positive fiscal impact on small business in two ways: 1) a hair design school established under these new rules may generate revenue from students enrolled in the school; and 2) hair designers and hair designer instructors licensed in accordance with the rule may

generate revenue by beginning new businesses or by earning compensation as instructors.

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 Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Allyson Pettley by phone at 801-530-6179, by FAX at 801-530-6511, or by Internet E-mail at apettley@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/02/2017

INTERESTED PERSONS MAY ATTEND A PUBLIC HEARING REGARDING THIS RULE:

♦ 09/06/2017 09:00 AM, Heber Wells Bldg, 160 E 300 S, second floor Commerce Hearing Room, Salt Lake City, UT

THIS RULE MAY BECOME EFFECTIVE ON: 10/09/2017

AUTHORIZED BY: Mark Steinagel, Director

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

**R156-11a.** ~~Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician~~ Cosmetology and Associated Professions Licensing Act Rule.

**R156-11a-101. Title.**

This rule is known as the "~~Barber, Cosmetologist/Barber, Esthetician, Electrologist, and Nail Technician~~ Cosmetology and Associated Professions Licensing Act Rule."

**R156-11a-102. Definitions.**

In addition to the definitions in Title 58, Chapters 1 and 11a, as used in Title 58, Chapters 1 and 11a or this rule:

(1) "Acrylic nail", as used in ~~Subsections~~ Section 15A-3-401(4)402 and Subsection R156-11a-102(25), means an extension for natural nails molded out of a polymer powder and a liquid monomer buffed to a shine.

(2) "Advanced pedicures", as used in Subsection 58-11a-102(~~34~~39)(a)(i)(D), means any of the following while caring for the nails, cuticles or calluses of the feet:

(a) utilizing manual instruments, implements, advanced electrical equipment, tools, or microdermabrasion for cleaning, trimming, softening, smoothing, or buffing;

(b) utilizing blades, including corn or callus planer or rasp, for smoothing, shaving or removing dead skin from the feet as defined in Section R156-11a-611; or

(c) utilizing topical products and preparations for chemical exfoliation as defined in Subsection R156-11a-610(4).

(3) "Aroma therapy" means the application of essential oils which are applied directly to the skin, undiluted or in a misted dilution with a carrier oil or lotion. for varied applications such as massage, hot packs, cold packs, compress, inhalation, steam or air diffusion, or in hydrotherapy services.

(4) "BCA acid" means bicloroacetic acid.

(5) "Body wraps", as used in Subsection 58-11a-102(~~34~~39)(a)(i)(A), means body treatments utilizing products or equipment to enhance and maintain the texture, contour, integrity and health of the skin and body.

(6) "Chemical exfoliation", as defined in Subsections 58-11a-102(~~34~~39)(a)(i)(C) and R156-11a-610(4), means a resurfacing procedure performed with a chemical solution or product for the purpose of removing superficial layers of the epidermis to a point no deeper than the stratum corneum.

(7) "Dermabrasion or open dermabrasion" means the surgical application of a wire or diamond frieze for deep skin resurfacing by a physician to abrade the skin to the epidermis and possibly down to the papillary dermis.

(8) "Dermaplane" means the use of a scalpel or bladed instrument under the direct supervision of a health care practitioner to shave the upper layers of the stratum corneum.

(9) "Direct supervision by a licensed health care practitioner" means a health care practitioner who, acting within the scope of the licensee's license, authorizes and directs the work of a licensee pursuant to this chapter as defined under Subsection R156-1-102a(4)(a).

(10) "Equivalent number of credit hours" means:

(a) the following conversion table if on a semester basis:

(i) theory - 1 credit hour - 30 clock hours;

(ii) practice - 1 credit hour - 30 clock hours; and

(iii) clinical experience - 1 credit hour - 45 clock hours;

and

(b) the following conversion table if on a quarter basis:

(i) theory - 1 credit hour - 20 clock hours;

(ii) practice - 1 credit hour - 20 clock hours; and

(iii) clinical experience - 1 credit hour - 30 clock hours.

(11) "Exfoliation" means the sloughing off of non-living skin cells "corneocytes" by superficial and non-invasive means.

(12) "Extraction" means the following:

(a) "[a]Advanced extraction", as used in Subsections 58-11a-102(~~34~~39)(a)(i)(F) and R156-11a-611(2)(b), means to perform extraction with a lancet or device that removes impurities from the skin[;].

(b) "[m]Manual extraction", as used in Subsection 58-11a-102(~~25~~31)(a), means to remove impurities from the skin with protected fingertips, cotton swabs or a loop comedone extractor.

(13) "Galvanic current" means a constant low-voltage direct current.

(14) "General supervision by a licensed health care practitioner" means a health care practitioner who, acting within the scope of the licensee's license, authorizes and directs the work of a licensee pursuant to this chapter as defined under Subsection R156-1-102a(4)(c).

(15) "Health care practitioner" means a physician/surgeon licensed under Title 58, Chapter 67, Utah Medical Practice Act, or Title 58, Chapter 68, Utah Osteopathic Medical Practice Act, or an advanced practice registered nurse licensed under Title 58, Chapter

31b, Nurse Practice Act, a podiatrist under Title 58, Chapter 5A, Podiatric Physician Licensing Act, or a physician assistant licensed under Title 58, Chapter 70a, Physician Assistant Practice Act, acting within the appropriate scope of practice.

(16) "Hydrotherapy", as used in Subsection 58-11a-102([34]39)(a)(i)(B), means the use of water for cosmetic purposes or beautification of the body.

(17) "Indirect supervision" means the supervising instructor who, acting within the scope of the licensee's license, authorizes and directs the work of a licensee pursuant to this chapter as defined under Subsection R156-1-102a(4)(b).

(18) "Limited chemical exfoliation" means a non-invasive chemical exfoliation and is further defined in Subsection R156-11a-610(3).

(19) "Lymphatic massage", as used in Subsections 58-11a-102([34]39)(a)(ii) and 58-11a-302(11)(e), means a method using a light rhythmic pressure applied by manual or other means to the skin using specific lymphatic maneuvers to promote drainage of the lymphatic fluid through the tissue.

(20) "Manipulating", as used in Subsection 58-11a-102([28]31)(a), means applying a light pressure by the hands to the skin.

(21) "Microdermabrasion", as used in Subsection 58-11a-102([34]39)(a)(i)(E), means a gentle, progressive, superficial, mechanical exfoliation of the uppermost layers of the stratum corneum using a closed-loop vacuum system.

(22) "Microneedling" means the use of multiple tiny solid needles designed to pierce the skin for the purpose of stimulating collagen production or cellular renewal. Devices used may be in the form of rollers, stamps or electronic "pens". It is also known as:

- (a) dermal needling;
- (b) Collagen Induction Therapy (CIT);
- (c) dermal rolling;
- (d) cosmetic dry needling;
- (e) multitrepannic collagen actuation; or
- (f) percutaneous collagen induction.

(23) "Patch test" or "predisposition test" means applying a small amount of a chemical preparation to the skin of the arm or behind the ear to determine possible allergies of the client to the chemical preparation.

(24) "Pedicure" means any of the following:

- (a) cleaning, trimming, softening, or caring for the nails, cuticles, or calluses of the feet;
- (b) the use of manual instruments or implements on the nails, cuticles, or calluses of the feet;
- (c) callus removal by sanding, buffing, or filing; or
- (d) massaging of the feet or lower portion of the leg.

(25) "Source capture system", as used in ~~Subsections~~ Section 15A-3-~~401(4)~~ 402 and Subsection 58-11a-502(7), means an air filtration and recirculation system that shall be:

- (a) maintained and cleaned according to the manufacturer's instructions; and
- (b) capable of:
  - (i) filtering and recirculating air to inside space not less than 50 cubic feet per minute (cfm) per acrylic nail station; or
  - (ii) exhausting not less than 50 cubic feet per minute (cfm) per acrylic nail station.

(26) "TCA acid" means trichloroacetic acid.

(27) "Unprofessional conduct" is further defined, in accordance with Section 58-1-501, in Section R156-11a-502.

**R156-11a-302a. Qualifications for Licensure - Examination Requirements.**

In accordance with Section 58-11a-302, the examination requirements for licensure are established as follows:

(1) Except as otherwise provided in Section 58-1-308 and R156-11a-308 for individuals reinstating a license, applicants for each classification listed below shall pass within one year prior to the date of application, or within other reasonable timeframe as approved by the Division upon review of applicable extenuating circumstances, the respective examination with a passing score of at least 75% as determined by the examination provider.

(a) Applicants for licensure as a barber shall pass the National- Interstate Council of State Boards of Cosmetology (NIC) Barber Theory and Practical Examinations.

(b) Applicants for licensure as a cosmetologist/barber shall pass the NIC Cosmetology/Barber Theory and Practical Examinations.

(c) Applicants for licensure as an electrologist shall pass the NIC Electrology Theory and Practical Examinations.

(d) Applicants for licensure as a basic esthetician shall pass the NIC Esthetics Theory and Practical Examinations.

(e) Applicants for licensure as a master esthetician shall pass the NIC Master Esthetics Theory and Practical Examinations.

(f) Applicants for licensure as a hair designer shall pass the NIC Hair Design Theory and Practical Examinations.

~~(f)g~~ Applicants for licensure as a barber instructor, cosmetologist/barber instructor, electrology instructor, esthetician instructor, hair designer instructor, or nail technology instructor shall pass the NIC Instructor Examinations.

~~(f)g~~ Applicants for licensure as a nail technician shall pass the NIC Nail Technology Theory and Practical Examinations.

(2) Any substantially equivalent theory, practical or instructor examination approved by the licensing authority of any other state is acceptable for any of the examinations specified in Subsection(1).

**R156-11a-302b. Qualifications for Licensure - Equivalency of Foreign School Education.**

In accordance with Subsection 58-11a-302(17):

(1) An applicant shall submit documentation of education equivalency from a foreign school education to a Utah licensed barber school, cosmetology/barber school, hair design school, esthetics school, electrology school, or nail technology school.

(2) The documentation shall be an education or credential evaluation from one of the following approved credential evaluation services:

- (a) Josef Silny & Associates Incorporated, International Education Consultants; or
- (b) Educational Credential Evaluators Incorporated.

**R156-11a-302c. Qualifications for Licensure - Acceptance of Credit Hours.**

In accordance with Subsection 58-11a-302([+8]21), a licensed school shall accept credit hours toward graduation [may be accepted] as follows:

(1) ~~The school shall~~~~[A licensed school may]~~ accept credit hours toward the curriculum set forth in Sections R156-11a-700, R156-11a-701, R156-11a-702, R156-11a-703, R156-11a-704, ~~[and]~~ R156-11a-705, ~~and R156-11a-706~~~~[from a licensee under Title 58, Chapter 11a, based upon the licensee's schooling, apprenticeship, or experience].~~

(2) The credit hours accepted ~~[toward graduation]~~ shall not exceed the number of hours required in Subsections 58-11a-302(1)(d)(i), 58-11a-302(4)(d)(i), 58-11a-302(7)(d), 58-11a-302(10)(d)(i), 58-11a-302(11)(d)(i), ~~[and]~~ 58-11a-302(14)(d)(i), ~~and 58-11a-302(17)(d)(i)~~ for that professional license in Utah.

#### **R156-11a-502. Unprofessional Conduct.**

"Unprofessional conduct" includes:

(1) failing to provide direct supervision of an apprentice, ~~or of a student attending a barber, cosmetology/barber, esthetics, electrology, hair design, or nail technology school, or of a student instructor;~~

(2) failing to obtain accreditation as a barber, cosmetology/barber, esthetics, electrology, hair design, or nail technology school in accordance with ~~[the requirements of]~~ Section R156-11a-601;

(3) failing to maintain accreditation as a barber, cosmetology/barber, esthetics, electrology, hair design, or nail technology school after having been approved for accreditation;

(4) failing to comply with the standards of accreditation applicable to barber, cosmetology/barber, esthetics, electrology, hair design, or nail technology schools;

(5) failing to provide adequate instruction or training as applicable to a student of a barber, cosmetology/barber, esthetics, electrology, or nail technology school, or in an approved barber, cosmetology/barber, esthetics, or nail technology apprenticeship;

(6) failing to comply with Title 26, Utah Health Code;

(7) failing to comply with the apprenticeship requirements applicable to barber, cosmetologist/barber, basic esthetician, master esthetician, or nail technician apprenticeships as set forth in Sections R156-11a-800 through R156-11a-804;

(8) failing to comply with the standards for curriculums applicable to barber, cosmetology/barber, esthetics, electrology, hair design, or nail technology schools as set forth in Sections R156-11a-700 through R156-11a-~~706~~707;

(9) using any device classified by the Food and Drug Administration as a prescriptive medical device without the appropriate level of supervision by a licensed health care practitioner acting within the licensed health care practitioner's scope of practice;

(10) performing services within the scope of practice as a basic esthetician, or a master esthetician without having been adequately trained to perform such services;

(11) failing as a supervisor to provide the appropriate level of supervision while a basic esthetician, an electrologist or a master esthetician under supervision is performing service within the scope of practice as set forth in Subsections 58-11a-102(~~25~~31), 58-11a-102(~~28~~34) and 58-11a-102(~~34~~39);

(12) performing services within the scope of practice as a basic esthetician, a master esthetician or an electrologist without having the appropriate level of supervision as required by Subsection 58-11a-102(~~25~~31), 58-11a-102(~~28~~34) and 58-11a-102(~~34~~39);

(13) violating any standard established in Sections R156-11a-601 through R156-11a-612;

(14) performing a procedure while the licensee has a known contagious disease of a nature that may be transmitted by performing the procedure, unless the licensee takes medically approved measures to prevent transmission of the disease; and

(15) performing a procedure on a client who has a known contagious disease of a nature that may be transmitted by performing the procedure, unless the licensee takes medically approved measures to prevent transmission of the disease.

#### **R156-11a-503. Administrative Penalties - Unlawful Conduct.**

(1) In accordance with Subsections 58-1-501(1)(a) and (c), 58-11a-301(1) and (2), 58-11a-502(1), (2), (4), (5), (6), or (7), and 58-11a-503(4), unless otherwise ordered by the presiding officer, the following fine schedule shall apply to citations issued under Title 58, Chapter 11a~~[-]~~:

(~~1~~)~~a~~) Practicing or engaging in, or attempting to practice or engage in activity for which a license is required under Title 58, Chapter 11a in violation of Subsection 58-11a-502(1)~~[-]~~:

First Offense: \$500

Second Offense: \$1,000;

(~~2~~)~~b~~) Aiding or abetting a person engaging in the practice of, or attempting to engage in the practice of, knowingly employing any other person to engage in or practice or attempt to engage in or practice any occupation or profession for which a license is required under Title 58, Chapter 11a in violation of Subsection 58-11a-502(2)~~[-]~~:

First Offense: \$800

Second Offense: \$1,600;

(~~3~~)~~c~~)~~(a~~)~~i~~) Using a solution composed of at least 10% methyl methacrylate (MMA) on a client in violation of Subsection 58-11a-502(4);

First Offense: \$500

Second Offense: \$1,000;

(~~b~~)~~ii~~) Possessing a solution composed of at least 10% methyl methacrylate (MMA) in violation of Subsection 58-11a-502(4);

First Offense: \$500

Second Offense: \$1,000;

(d) Performing an ablative procedure as defined in Section 58-67-102 in violation of Subsection 58-11a-502(5):

First Offense: \$1,000

Second Offense: \$2,000;

(e) When acting as an instructor regarding a service requiring licensure under Title 58, Chapter 11a, for a class or education program where attendees are not licensed under Title 58, Chapter 11a, violating Subsection 58-11a-502(6) by failing to inform each attendee in writing that:

(i) taking the class or program without completing the requirements for licensure under this chapter is insufficient to certify or qualify the attendee to perform a service for compensation that requires licensure under this chapter; and

(ii) the attendee is required to obtain licensure under this chapter before performing the service for compensation:

First Offense: \$500

Second Offense: \$1,000;

(f) Failing, as a salon or school where nail technology is practiced or taught, to maintain a source capture system as required

under Title 15A, State Construction and Fire Codes Act, including failing to maintain and clean a source capture system's air filter according to the manufacturer's instructions, in violation of Subsection 58-11a-502(7):

First Offense: \$500

Second Offense: \$1,000.

([4]2) Citations shall not be issued for third offenses, except in extraordinary circumstances approved by the investigative supervisor. If a citation is issued for a third offense, the fine is double the second offense amount, with a maximum amount not to exceed the maximum fine allowed under Subsection 58-11a-503(4) (h).

([5]3) If multiple offenses are cited on the same citation, the fine shall be determined by evaluating the most serious offense.

([6]4) An investigative supervisor may authorize a deviation from the fine schedule based upon the aggravating or mitigating circumstances.

([7]5) The presiding officer for a contested citation shall have the discretion, after a review of the aggravating and mitigating circumstances, to increase or decrease the fine amount imposed by an investigator based upon the evidence reviewed.

#### **R156-11a-601. Standards for Accreditation.**

In accordance with Subsections 58-11a-302(3)(c)(iv), 58-11a-302(6)(c)(iv), 58-11a-302(9)(c)(iv), 58-11a-302(13)(c)(iv), [and] 58-11a-302(16)(c)(iv), and 58-11a-302(19)(c)(iv), the accreditation standards for a barber school, a cosmetology/barber school, an electrology school, an esthetics school, a hair design school, and a nail technology school include:

(1) Each school shall be [~~required to become~~] accredited by:

(a) the National Accrediting Commission of Cosmetology Arts and Sciences (NACCAS); or

(b) other accrediting bodies recognized by the U.S. Department of Education.

(2) Each school shall maintain and keep the accreditation current.

(3) A newly licensed school shall pursue accreditation under this section using the following procedure:

(a) A new school shall:

(i) within one month of the date the school was licensed as a school by the Division, submit to an accrediting commission an application for candidate status;

(ii) within 18 months of the date the school was licensed by the Division, provide the Division evidence of receiving candidate status from the accrediting commission;

(iii) file with the Utah Department of Commerce's Division of Consumer Protection a "Request for Exemption pursuant to the Postsecondary Proprietary School Act" application, pursuant to Section 13-34-105 and Section R152-34-5;

(iv) during the pendency of its application for accreditation status, comply with all applicable accreditation standards; and

(v) receive approval for accreditation within 24 months following the date it achieved candidate status.

~~(i) submit an application for candidate status for accreditation to an accrediting commission within one month of the date when the school was licensed by the Division as a barber~~

~~school, a cosmetology/barber school, an electrology school, an esthetics school, or a nail technology school;~~

~~(ii) provide evidence received from the accrediting commission to the Division of achieving candidate status within 12 months of the date the school was licensed;~~

~~(iii) file an "Exemption of Registration as a Post-Secondary Proprietary School" form with the Division of Consumer Protection pursuant to Sections 13-34-101 and R152-34-1;~~

~~(iv) comply with all applicable accreditation standards during the pendency of its application for accreditation status; and~~

~~(v) have 24 months following the date of achieving candidate status to be approved for accreditation.]~~

(b) The Division shall determine whether a newly-licensed school entity has succeeded a previously-licensed school entity for the purposes of achieving accreditation.

(c) If a newly-licensed school is determined by the Division to be a new entity, then the newly-licensed school shall comply with the accreditation deadlines [~~that are~~] specified in Subsection R156-11a-601(3)(a) above.

(d) If a newly-licensed school is determined by the Division not to be a new entity, then the newly-licensed school shall meet the accreditation deadlines previously set by its accrediting commission.

(4) The Division's determination shall be based upon whether the newly-licensed school:

(a) operates on essentially the same premises as the previously-licensed school;

(b) uses essentially the same staff;

(c) operates under essentially the same ownership; and

(d) maintains the previously-licensed school[s]'s accreditation status with the applicable governing accreditation commission.

(5) A licensee whose accreditation has been withdrawn shall immediately notify the Division.

(6) A licensee who fails to obtain or maintain accreditation status, as required herein, shall immediately surrender to the Division its license as a school. Failure to do so shall constitute a basis for immediate revocation of licensure in accordance with Section 63G-4-502.

#### **R156-11a-602. Standards for the Physical Facility.**

In accordance with Subsections 58-11a-302(3)(c)(iii), 58-11a-302(6)(c)(iii), 58-11a-302(9)(c)(iii), 58-11a-302(13)(c)(iii), [and] 58-11a-302(16)(c)(iii), and 58-11a-302(19)(c)(iii), the standards for the physical facilit[y]ies of a barber, cosmetology/barber, electrology, esthetics, hair design, or nail technology school[s] shall include:

(1) the governing standards established by the accreditation commission; and

(2) whether or not addressed in the governing standards[-~~each facility shall have the following available~~]:

(a) enough of each type of training equipment so that each student has an equal opportunity to be properly trained;

(b) laundry facilities to maintain sanitation and sterilization; and

(c) appropriate amounts of clean towels, sheets, linen, sponges, headbands, compresses, robes, drapes and other necessary linens for each student's and client's use.

**R156-11a-603. Standards for a Student Kit.**

(1) In accordance with Subsections 58-11a-302(3)(c)(iv), 58-11a-302(6)(c)(iv), 58-11a-302(9)(c)(iv), 58-11a-302(13)(c)(iv), ~~[and]58-11a-302(16)(c)(iv)~~, and 58-11a-302(19)(c)(iii), barber, cosmetology/barber, electrology, esthetics, hair design, and nail technology schools shall provide to each student a list of all basic kit supplies needed by ~~[each]~~that student.

(2) The basic kit may be supplied by the school or purchased independently by the student.

**R156-11a-604. Standards for Prohibition Against Operation as a Barbershop, Salon or Spa.**

(1) In accordance with Subsections 58-11a-302(3)(c)(iii), 58-11a-302(6)(c)(iii), 58-11a-302(9)(c)(iv), 58-11a-302(13)(c)(iii), ~~[and]58-11a-302(16)(c)(iii)~~, and 58-11a-302(19)(c)(iii), when a barbershop, ~~[professional]~~ salon, or spa is under the same ownership or is otherwise associated with a school, the barbershop, salon, or spa shall maintain separate operations from the school.

(2) If the barbershop, salon, or spa is located in the same building as a school, separate entrances and visitor reception areas are required. The barbershop, salon, or spa shall also use separate public information releases, advertisements, and names than that used by the school.

**R156-11a-605. Standards for Protection of Students.**

In accordance with Subsections 58-11a-302(3)(c)(iii) and (iv), 58-11a-302(6)(c)(iii) and (iv), 58-11a-302(9)(c)(iii) and (iv), 58-11a-302(13)(c)(iii) and (iv), 58-11a-302(16)(c)(iii) and (iv), and 58-11a-302(19)(c)(iii) and (iv), standards for the protection of students shall include the following:

(1) ~~[In the event]~~ If a school ceases to operate for any reason, the school shall:

(a) notify the Division within 15 days by registered or certified mail; and

(b) name a trustee who shall be responsible for:

(i) maintaining the student records for a minimum period of ten years; and

(ii) providing student information, such as accumulated ~~[student]~~ hours and dates of attendance ~~[during that time]~~.

(2) Schools shall provide a copy of the written contract prepared in accordance with Section R156-11a-607 to each student.

(3) Schools shall not use students to perform maintenance, janitorial, or remodeling work such as scrubbing floors, walls or toilets, cleaning windows, waxing floors, painting, decorating, or performing any outside work on the grounds or building. Students may be required to clean up after themselves and to perform or participate in daily cleanup of work areas, including the floor space, shampoo bowls, laundering of towels and linen, and other general cleanup duties that are related to the performance of client services.

(4) Schools shall not require students to sell products applicable to their industry as a condition to graduate, but may provide instruction in product sales techniques as part of their curriculums.

(5) Schools shall keep a daily written record of student attendance.

(6) Schools shall not be permitted to remove hours earned by a student. If a student is late for class, the school may require the student to retake the class before giving credit for the class.

Schools may require a student to take a refresher course or retake a class toward graduation based upon an evaluation of the student's level of competency.

(7) In accordance with Subsection 58-11a-502(3)(a), schools shall not require students to participate in hair removal training that pertains to the genitals or anus of a client.

**R156-11a-606. Standards for Protection of Schools.**

In accordance with Subsections 58-11a-302(3)(c)(iv), 58-11a-302(6)(c)(iv), 58-11a-302(9)(c)(iv), 58-11a-302(13)(c)(iv), ~~[and]58-11a-302(16)(c)(iv)~~, and 58-11a-302(17)(c)(iv), standards for the protection of barber, cosmetology/barber, electrology, esthetics, hair design, and nail technology schools shall include the following:

(1) Schools shall not be required to release documentation of hours earned to a student until the student has paid the tuition or fees owed to the school as provided in the terms of the contract.

(2) Schools may accept transfer students. Schools shall determine the number of hours to be accepted toward graduation based upon an evaluation of the student's level of training in accordance with Section R156-11a-302c.

(3) Hours obtained by a student who is enrolled in ~~[a barber, cosmetology/barber, esthetics, master esthetics, or nail technology]~~ an apprenticeship may not be used to satisfy any of the required hours of school instruction.

**R156-11a-607. Standards for a Written Contract.**

(1) In accordance with Subsections 58-11a-302(3)(c)(iv), 58-11a-302(6)(c)(iv), 58-11a-302(9)(c)(iv), 58-11a-302(13)(c)(iv), ~~[and]58-11a-302(16)(c)(iv)~~, and 58-11a-302(17)(c)(iv), barber, cosmetology/barber, electrology, esthetics, hair design and nail technology schools shall complete a written contract with each student prior to admission.

(2) Each contract shall include specifically, or by reference to the school's catalogue or handbook, or both, the following:

(a) the current status of the school's accreditation;

(b) rules of conduct;

(c) attendance requirements;

(d) provisions for make-[-]up work;

(e) grounds for probation, suspension or dismissal; and

(f) a detailed fee schedule which shall include the student's financial responsibility upon voluntarily leaving the school or upon being suspended from the school.

(3) The school shall maintain on file a copy of the contract and of any referenced catalogue or handbook, ~~[or both]~~ for each student, and shall provide a copy of the contract and any catalogue or handbook ~~[or both]~~ to the Division upon request.

**R156-11a-608. Standards for Staff Requirements of Schools.**

In accordance with Subsections 58-11a-302(3)(c)(iv), 58-11a-302(6)(c)(iv), 58-11a-302(9)(c)(iv), 58-11a-302(13)(c)(iv), ~~[and]58-11a-302(16)(c)(iv)~~, and 58-11a-302(17)(c)(iv), the staff requirements for barber, cosmetology/barber, electrology, esthetics, hair design, and nail technology schools shall include:

(1) Schools shall ~~[be required to]~~ have ~~[as]~~ a minimum ~~[of]~~ one licensed instructor for every 20 students, or fraction thereof, attending a practical session, and one licensed instructor for any group attending a theory session. Special guest speakers shall not

reduce the required number of licensed instructors [~~required to be present~~].

(2) Schools may give credit for special workshops, training seminars, and competitions, or may invite special guest speakers who are not licensed in accordance with Section 58-11a-302, to provide instruction or give practical demonstrations to supplement the curriculum as long as a licensed instructor from the school is present.

(3) Student instructors shall not be counted as part of the instructor staff.

#### **R156-11a-609. Standards for Instructors.**

(1) In accordance with Subsections 58-11a-302(2)(e) and (f), 58-11a-302(5)(e) and (f), 58-11a-302(8)(e) and (f), 58-11a-302(12)(e) and (f), [~~and~~] 58-11a-302(15)(e) and (f), and 58-11a-302(18)(e) and (f), barber, cosmetology/barber, electrology, esthetics, hair design, and nail technology instructors may only teach in those areas for which they have received training and are qualified to teach.

(2) In accordance with Subsection 58-11a-102([9]11), an individual licensed as a cosmetology/barbering instructor may teach:

(a) barbering, basic esthetics, and hair design as part of the cosmetology/barbering [~~curriculum~~] or nail technology curriculums in a licensed barber school, a licensed cosmetology/barber school, a licensed hair design school, or a licensed nail technology school [~~or~~] and

(b) barbering and basic esthetics in an approved barber, cosmetology/barber, or nail technology apprenticeship, provided the individual can demonstrate the same experience as required in Subsection(1).

(3) An instructor may only teach the use of a mechanical or electrical apparatus for which the instructor is trained and qualified.

#### **R156-11a-610 Standards for the Use of Acids.**

In accordance with Subsections 58-11a-102(25)(b), 58-11a-102[~~and~~](31)(a)(i)(C), and 58-11a-501(17), the standards for the use of any acid or concentration of acids, shall be:

(1) The use of any acid or acid solution which would exfoliate the skin below the stratum corneum, including those listed in Subsections (3) and (4), is prohibited unless used under the supervision of a licensed health care practitioner.

(2) The following acids are prohibited unless used under the supervision of a licensed health care practitioner:

- (a) phenol;
- (b) bichloroacetic acid;
- (c) resorcinol, except as provided in Subsection (4)(b);

and

(d) any acid in any concentration level that requires a prescription.

(3) Limited chemical exfoliation for a basic esthetician does not include the mixing, combining, or layering of skin exfoliation products or services, but does include:

- (a) alpha hydroxy acids of 30% or less, with a pH of not less than 3.0; and
- (b) salicylic acid of 15% or less.

(4) Chemical exfoliation for a master esthetician includes:

(a) acids allowed for a basic esthetician;

(b) modified jessner solution on the face and the tissue immediately adjacent to the jaw line;

(c) alpha hydroxy acids with a pH of not less than 1.0 and at a concentration of 50% must include partially neutralized acids, and any acid above the concentration of 50% is prohibited;

(d) beta hydroxy acids with a concentration of not more than 30%;

(e) trichloroacetic acid, in accordance with Subsection 58-11a-501(17)(c), [~~may be used~~] in a concentration of not more than 15%, but no manual, mechanical, or acid exfoliation can be used prior to treatment unless under the general supervision of a licensed health care practitioner; and

(f) vitamin-[-]based acids.

(5) A licensee may not apply any exfoliating acid to a client's skin that has undergone microdermabrasion or microneedling within the previous seven days, unless under the general supervision of a licensed health care practitioner.

(6)(a) A licensee shall prepare and maintain current documentation of the licensee's cumulative experience in chemical exfoliation, including:

- (i) courses of instruction;
- (ii) specialized training;
- (iii) on-the-job experience; and
- (iv) the approximate percentage that chemical exfoliation represents in the licensee's overall business.

(b) A licensee shall provide the documentation required by Subsection (6)(a) to the Division upon request.

(7) A licensee may not use an acid or perform a chemical exfoliation [~~for which~~] that the licensee is not competent to use or perform through training and experience, and as documented in accordance with Subsection (6).

(8) Only commercially available products utilized in accordance with manufacturers' instructions may be used for chemical exfoliation purposes.

(9) A patch test shall be administered to each client prior to beginning any chemical exfoliation series.

#### **R156-11a-611. Standards for Approval of Mechanical or Electrical Apparatus.**

In accordance with Subsections 58-11a-102([31]39)(a)(i)(G)(II) and (H), the standards for approval of mechanical or electrical apparatus [~~shall be~~] are:

(1) No mechanical or electrical apparatus that is considered a prescription medical device by the FDA may be used by a licensee, unless such use is completed under the appropriate level of supervision by a licensed health care practitioner acting within the licensed health care practitioner's scope of practice.

(2) Dermaplane procedures, dermabrasion procedures, blades, knives, and lancets are prohibited except for:

- (a) advanced pedicures;
- (b) advanced extraction of impurities from the skin; and
- (c) dermaplane procedures for advanced exfoliation as defined in Subsection R156-11a-102(7) by a master esthetician under direct supervision of a health care practitioner.

(3) The use of any procedure in which human tissue is cut or altered by laser energy or ionizing radiation is prohibited for all individuals licensed under this chapter unless it is within the scope of practice for the licensee and under the appropriate level of



supervision by a licensed health care practitioner acting within the licensed health care practitioner's scope of practice.

(4) To be approved, a microdermabrasion machine must:

(a) be specifically labeled for cosmetic or esthetic purposes;

(b) be a closed-loop vacuum system that uses a tissue retention device; and

(c) the normal and customary use of the machine does not result in the removal of the epidermis beyond the stratum corneum.

(5) To be approved, a microneedling device shall:

(a) be used only by a master esthetician:

(i) without supervision if needle penetration does not exceed 1.5 mm; or

(ii) with general supervision by a licensed health care practitioner if needle penetration exceeds 1.5 mm; and

(b) be used specifically for cosmetic or esthetic purposes.

**R156-11a-612. Standards for Disclosure.**

(1) In accordance with Subsections 58-11a-102(~~25~~31)(b) and (~~34~~39)(a)(i)(C), a licensee acting within the licensee's scope of practice shall inform a client of the following before applying a chemical exfoliant, using a microneedling device, or using a microdermabrasion machine:

(a) the procedure may only be performed for cosmetic and not medical purposes, unless the licensee is working under the supervision of a licensed health care practitioner, who is working within the scope of the practitioner's license; and

(b) the benefits and risks of the procedure.

**R156-11a-700. Curriculum for Barber Schools.**

In accordance with Subsection 58-11a-302(3)(c)(iv), the curriculum for a barber school shall consist of 1,000 hours of instruction in the following subject areas:

- (1) introduction consisting of:
  - (a) history of barbering;
  - (b) an overview of the barber curriculum;
- (2) personal, client, and shop safety including:
  - (a) aseptic techniques and sanitary procedures;
  - (b) disinfection and sterilization methods and procedures;
  - (c) health risks to the barber;
- (3) business and shop management including:
  - (a) developing a clientele;
  - (b) professional image;
  - (c) professional ethics;
  - (d) professional associations;
  - (e) public relations;
  - (f) advertising;
- (4) legal issues including:
  - (a) malpractice liability;
  - (b) regulatory agencies;
  - (c) tax laws;
  - (5) human immune system;
  - (6) diseases and disorders of the hair and scalp including:
    - (a) bacteriology;
    - (b) sanitation;
    - (c) sterilization;
    - (d) decontamination;
    - (e) infection control;
  - (7) implements, tools, and equipment for barbering;

- (8) first aid;
- (9) anatomy;
- (10) science of barbering;
- (11) chemistry for barbering;
- (12) analysis of the hair and scalp;
- (13) properties of the hair, skin, and scalp;
- (14) basic hairstyling and hair cutting including:
  - (a) draping;
  - (b) clipper variations;
  - (c) scissor cutting; and
  - (d) wet and thermal styling;
- (15) shaving and razor cutting;
- (16) mustache and beard design;
- (17) elective topics; and
- (18) ~~the Utah~~ Barber Examination review.

**R156-11a-701. Curriculum for Electrology Schools.**

In accordance with Subsection 58-11a-302(9)(c)(iv), the curriculum for an electrology school shall consist of 600 hours of instruction in the following subject areas:

- (1) introduction consisting of:
  - (a) the history of electrology; and
  - (b) an overview of the curriculum;
- (2) personal, client, and salon safety including:
  - (a) aseptic techniques and sanitary procedures;
  - (b) disinfection and sterilization methods and procedures;
- (3) health risks to the electrologist;
- (3) business and salon management including:
  - (a) developing a clientele;
  - (b) professional image;
  - (c) professional ethics;
  - (d) professional associations;
  - (e) public relations; and
  - (f) advertising;
- (4) legal issues including:
  - (a) malpractice and liability;
  - (b) regulatory agencies; and
  - (c) tax laws;
  - (5) human immune system;
  - (6) diseases and disorders of hair and skin;
  - (7) implements, tools, and equipment for electrology;
  - (8) first aid;
  - (9) anatomy;
  - (10) science of electrology;
  - (11) analysis of the skin;
  - (12) physiology of hair and skin;
  - (13) medical definitions including:
    - (a) dermatology;
    - (b) end[~~f~~]ocrinology;
    - (c) angiology; and
    - (d) neurology;
  - (14) evaluating the characteristics of skin;
  - (15) evaluating the characteristics of hair;
  - (16) medications affecting hair growth including:
    - (a) over-the-counter preparations;
    - (b) anesthetics; and
    - (c) prescription medications;
  - (17) contraindications;

and

(18) disease and blood-borne pathogens control including:

- (a) pathogenic bacteria and non-bacterial causes; and
- (b) American Electrology Association (AEA) infection control standards;

(19) principles of electricity and equipment including:

(a) types of electrical currents, their measurements and classifications;

(b) Food and Drug Administration (FDA) approved needle type epilation equipment;

(c) FDA approved hair removal devices; and

(d) epilator operation and care;

(20) modalities for need type electrolysis including:

(a) needle/probe types, features, and selection;

(b) insertions, considerations, and accuracy;

(c) galvanic multi needle technique;

(d) thermolysis manual and flash technique;

(e) blend and progressive epilation technique; and

(f) one and two handed techniques;

(21) clinical procedures including:

(a) consultation;

(b) health/medical history;

(c) pre and post treatment skin care;

(d) normal healing skin effects;

(e) tissue injury and complications;

(f) treating ingrown hairs;

(g) face and body treatment;

(h) cosmetic electrology; and

(i) positioning and draping;

(22) elective topics; and

(23) [~~Utah~~]Electrology Examination review.

**R156-11a-702. Curriculum for Esthetics School - Basic Esthetician Programs.**

In accordance with Subsection 58-11a-302(13)(c)(iv), the curriculum for an esthetics school basic esthetician program shall consist of 600 hours of instruction in the following subject areas:

(1) introduction consisting of:

(a) history of esthetics; and

(b) an overview of the curriculum;

(2) personal, client, and salon safety including:

(a) aseptic techniques and sanitary procedures;

(b) disinfection and sterilization methods and procedures;

and

(c) health risks to the basic esthetician;

(3) business and salon management including:

(a) developing a clientele;

(b) professional image;

(c) professional ethics;

(d) professional associations;

(e) public relations; and

(f) advertising.

(4) legal issues including:

(a) malpractice liability;

(b) regulatory agencies; and

(c) tax laws;

(5) human immune system;

(6) diseases and disorders of the skin including:

(a) bacteriology;

(b) sanitation;

(c) sterilization;

(d) decontamination; and

(e) infection control;

(7) implements, tools, and equipment for basic esthetics

including:

(a) high frequency or galvanic current; and

(b) heat lamps;

(8) first aid;

(9) anatomy;

(10) science of basic esthetics;

(11) analysis of the skin;

(12) physiology of the skin;

(13) facials, manual and mechanical;

(14) limited chemical exfoliation including:

(a) pre-exfoliation consultation;

(b) post-exfoliation treatments; and

(c) chemical reactions;

(15) chemistry for basic esthetics;

(16) temporary removal of superfluous hair by waxing;

(17) treatment of the skin;

(18) packs and masks;

(19) [~~A~~]aroma therapy;

(20) application of makeup including:

(a) application of artificial eyelashes;

(b) arching of the eyebrows; and

(c) tinting of the eyelashes and eyebrows;

(21) medical devices;

(22) cardio[-]pulmonary resuscitation (CPR);

(23) basic facials;

(24) chemistry of cosmetics;

(25) skin treatments, manual and mechanical;

(26) massage of the face and neck;

(27) natural nail manicures and pedicures;

(28) elective topics; and

(29) [~~Utah~~]Esthetic Examination review.

**R156-11a-703. Curriculum for Esthetics School - Master Esthetician Programs.**

In accordance with Subsection 58-11a-302(13)(c)(iv), the curriculum for an esthetics school master esthetician program shall consist of 1,200 hours of instruction, 600 of which consist of the curriculum for a basic esthetician program, the remaining 600 of which shall be in the following subject areas:

(1) introduction consisting of:

(a) history of esthetics and master esthetics; and

(b) an overview of the curriculum;

(2) personal, client, and salon safety including:

(a) aseptic techniques and sanitary procedures;

(b) disinfection and sterilization methods and procedures;

and

(c) health risks to the master esthetician;

(3) business and salon management consisting of:

(a) developing clients;

(b) professional image;

(c) professional ethics;

(d) professional associations;

(e) advertising; and

(f) public relations;

- (4) legal issues including:
  - (a) malpractice liability;
  - (b) regulatory agencies; and
  - (c) tax laws;
  - (5) the human immune system;
  - (6) diseases and disorders of the skin including:
    - (a) bacteriology;
    - (b) sanitation;
    - (c) sterilization;
    - (d) contamination; and
    - (e) infection controls;
  - (7) implements, tools, and equipment for master esthetics;
  - (8) first aid;
  - (9) anatomy;
  - (10) science of master esthetics;
  - (11) analysis of the skin;
  - (12) physiology of the skin;
  - (13) advanced facials, manual and mechanical;
  - (14) chemistry for master esthetics;
  - (15) advanced chemical exfoliation, including:
    - (a) pre-exfoliation consultation;
    - (b) post-exfoliation treatments; and
    - (c) reactions;
  - (16) temporary removal of superfluous hair by waxing and advanced waxing;
  - (17) advanced pedicures;
  - (18) advanced [A]roma therapy;
  - (19) the aging process and its damage to the skin;
  - (20) medical devices;
  - (21) cardio[-]pulmonary resuscitation (CPR) training;
  - (22) hydrotherapy;
  - (23) advanced mechanical and electrical devices including instruction in using:
    - (a) sanding and microdermabrasion techniques;
    - (b) galvanic or high-frequency current for treatment of the skin;
    - (c) devices equipped with a brush to cleanse the skin;
    - (d) devices that apply a mixture of steam and ozone to the skin;
    - (e) devices that spray water and other liquids on the skin;
    - (f) any other mechanical devices, esthetic preparations, or procedures approved by the Division in collaboration with the Board for the care and treatment of the skin;
  - (24) elective topics;
  - (25) for schools teaching lymphatic massage, in accordance with Subsections 58-11a-102([34]32)(a)(ii) and 58-11a-302(11)(e)([4](+)(C)), 200 hours of instruction is required and shall consist of:
    - (a) 40 hours of training in anatomy and physiology of the lymphatic system;
    - (b) 70 applications of one hour each in manual lymphatic massage of the full body; and
    - (c) 90 hours of training in lymphatic massage by other means, including but not limited to energy, mechanical devices, suction-[-]assisted massage with or without rollers, compression therapy with equipment, or garment therapy; and
  - (26) [Utah]Master Esthetician Examination review.

**R156-11a-704. Curriculum for Nail Technology Schools.**

In accordance with Subsection 58-11a-302([46]19)(c)(iv), the curriculum for a nail technology school shall consist of 300 hours of instruction in the following subject areas:

- (1) introduction consisting of:
  - (a) history of nail technology; and
  - (b) an overview of the curriculum;
- (2) personal, client, and salon safety including:
  - (a) aseptic techniques and sanitary procedures;
  - (b) disinfection and sterilization methods and procedures;
- and
  - (c) health risks to the nail technician;
  - (3) business and salon management including:
    - (a) developing clientele;
    - (b) professional image;
    - (c) professional ethics;
    - (d) professional associations;
    - (e) public relations; and
    - (f) advertising;
  - (4) legal issues including:
    - (a) malpractice liability;
    - (b) regulatory agencies; and
    - (c) tax laws;
    - (5) human immune system;
    - (6) diseases and disorders of the nails and skin including:
      - (a) bacteriology;
      - (b) sanitation;
      - (c) sterilization;
      - (d) decontamination; and
      - (e) infection control;
    - (7) implements, tools, and equipment for nail technology;
    - (8) first aid;
    - (9) anatomy;
    - (10) science for nail technology;
    - (11) theory of basic manicuring including hand and arm massage;
    - (12) physiology of the skin and nails;
    - (13) chemistry for nail technology;
    - (14) artificial nail techniques consisting of:
      - (a) wraps;
      - (b) nail tips;
      - (c) gel nails;
      - (d) sculptured and other acrylic nails; and
      - (e) nail art;
    - (15) pedicures and massaging the lower leg and foot;
    - (16) elective topics; and
    - (17) [Utah]Nail Technology Examination review.

**R156-11a-705. Curriculum for Cosmetology/Barber Schools.**

In accordance with Subsection 58-11a-302(6)(c)(iv), the curriculum for a cosmetology/barber school shall consist of 1,600 hours of instruction in all of the following subject areas:

- (1) introduction consisting of:
  - (a) history of barbering, cosmetology/barbering, esthetics, nail technology; and
  - (b) overview of the curriculum;
- (2) personal, client, and salon safety including:
  - (a) aseptic techniques and sanitary procedures;
  - (b) disinfection and sterilization methods and procedures;

- (c) health risks to the cosmetologist/barber;
- (3) business and salon management including:
  - (a) developing clientele;
  - (b) professional image;
  - (c) professional ethics;
  - (d) professional associations;
  - (e) public relations; and
  - (f) advertising;
- (4) legal issues including:
  - (a) malpractice liability;
  - (b) regulatory agencies; and
  - (c) tax laws;
- (5) human immune system;
- (6) diseases and disorders of skin, nails, hair, and scalp including:
  - (a) bacteriology;
  - (b) sanitation;
  - (c) sterilization;
  - (d) decontamination; and
  - (e) infection control;
  - (7) implements, tools, and equipment for cosmetology, barbering, basic esthetics, and nail technology, including:
    - (a) high frequency or galvanic current; and
    - (b) heat lamps;
    - (8) first aid;
    - (9) anatomy;
    - (10) science of cosmetology/barbering, basic esthetics, and nail technology;
      - (11) analysis of the skin, hair, and scalp;
      - (12) physiology of the human body including skin and nails;
      - (13) electricity and light therapy;
      - (14) limited chemical exfoliation including:
        - (a) pre-exfoliation consultation;
        - (b) post-exfoliation treatments; and
        - (c) chemical reactions;
      - (15) chemistry for cosmetology/barbering, basic esthetics, and nail technology;
      - (16) temporary removal of superfluous hair including by waxing;
        - (17) properties of the hair, skin, and scalp;
        - (18) basic hairstyling including:
          - (a) wet and thermal styling;
          - (b) permanent waving;
          - (c) hair coloring;
          - (d) chemical hair relaxing; and
          - (e) thermal hair straightening;
        - (19) haircuts including:
          - (a) draping;
          - (b) clipper variations;
          - (c) scissor cutting;
          - (d) shaving; and
          - (e) wigs and artificial hair;
        - (20) razor cutting[~~for men~~];
        - (21) mustache and beard design;
        - (22) basic esthetics including:
          - (a) treatment of the skin, manual and mechanical;
          - (b) packs and masks;
          - (c) aroma therapy;

- (d) chemistry of cosmetics;
- (e) application of makeup including:
  - (i) application of artificial eyelashes;
  - (ii) arching of the eyebrows;
  - (iii) tinting of the eyelashes and eyebrows;
- (f) massage of the face and neck; and
- (g) natural manicures and pedicures;
- (23) medical devices;
- (24) cardio[-]pulmonary resuscitation (CPR);
- (25) artificial nail techniques consisting of:
  - (a) wraps;
  - (b) nail tips;
  - (c) gel nails;
  - (d) sculptured and other acrylic nails; and
  - (e) nail art;
- (26) pedicures and massaging of the lower leg and foot;
- (27) elective topics; and
- (28) [Utah]Cosmetology/Barber Examination review.

**R156-11a-706. Curriculum for Hair Design Schools.**

In accordance with Subsection 58-11a-302(16)(c)(iv), the curriculum for a hair design school shall consist of 1,200 hours of instruction in the following subject areas:

- (1) introduction, consisting of:
  - (a) history of hair design; and
  - (b) overview of the curriculum;
- (2) personal, client, and salon safety, including:
  - (a) aseptic techniques and sanitary procedures;
  - (b) disinfection and sterilization methods and procedures;
  - (c) health risks to the hair designer;
- (3) business and salon management, including:
  - (a) developing clientele;
  - (b) professional image;
  - (c) professional ethics;
  - (d) professional associations;
  - (e) public relations; and
  - (f) advertising;
- (4) legal issues, including:
  - (a) malpractice liability;
  - (b) regulatory agencies; and
  - (c) tax laws;
  - (5) human immune system;
  - (6) diseases and disorders of hair and scalp, including:
    - (a) bacteriology;
    - (b) sanitation;
    - (c) sterilization;
    - (d) decontamination; and
    - (e) infection control;
  - (7) implements, tools, and equipment for hair design, including:
    - (a) high frequency current; and
    - (b) heat lamps;
    - (8) first aid;
    - (9) anatomy;
    - (10) science of hair design;
    - (11) analysis of the hair and scalp;
    - (12) physiology of the human body;
    - (13) electricity and light therapy;
    - (14) chemical reactions;

- ~~(15) chemistry for hair design;~~
- ~~(16) properties of the hair and scalp;~~
- ~~(17) basic hairstyling including:~~
  - ~~(a) wet and thermal styling;~~
  - ~~(b) permanent waving;~~
  - ~~(c) hair coloring;~~
  - ~~(d) chemical hair relaxing; and~~
  - ~~(e) thermal hair straightening;~~
- ~~(18) haircuts, including:~~
  - ~~(a) draping;~~
  - ~~(b) clipper variations;~~
  - ~~(c) scissor cutting;~~
  - ~~(d) shaving; and~~
  - ~~(e) wigs and artificial hair;~~
- ~~(19) razor cutting;~~
- ~~(20) mustache and beard design;~~
- ~~(21) cardio-pulmonary resuscitation(CPR);~~
- ~~(22) elective topics; and~~
- ~~(23) Hair Designer Examination review.~~

**R156-11a-~~706~~707. Curriculum for Instructor Schools.**

In accordance with Subsections 58-11a-302(2)(e)(i), ~~58-11a-302(5)(e)(i), 58-11a-302(8)(e)(i), 58-11a-302(12)(e)(i), [and] 58-11a-302(15)(e)(i), and 58-11a-302(18)(e)(i).~~ the curriculum for an approved instructor school shall consist of instructor training in the following subjects:

- (1) motivation and the learning process;
- (2) teacher preparation;
- (3) teaching methods;
- (4) classroom management;
- (5) testing;
- (6) instructional evaluation;
- (7) laws, rules, and regulations; and
- (8) ~~[Utah]~~ Barber, Cosmetology/Barber, Esthetics (Master level), Electrology, Hair Designer, and Nail Technology Instructors Examination review.

**R156-11a-800. Approved Barber Apprenticeship Requirements.**

In accordance with Subsection 58-11a-102(1), the requirements for an approved barber apprenticeship shall include the following:

- (1) The instructor shall have only one apprentice at a time.
- (2) The apprentice shall register with the Division by submitting a form prescribed by the Division.
- (3) The instructor must be approved by the Division for the apprenticeship.
- (4) There shall be a conspicuous sign near the work station of the apprentice stating "Apprentice in Training".
- (5) The instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services which will document the total number of hours of training. The record shall be available to the Division upon request.
- (6) A complete set of barber texts shall be available to the apprentice.
- (7) An apprentice may be compensated for services performed.

(8) The instructor shall provide training and technical instruction of 1,250 hours using the curriculum defined in Section R156-11a-700.

(9) The instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

(10) An apprentice shall not perform work on the public until the apprentice has received at least 10% of the hours of technical training, with at least a portion of that time devoted to each of the subjects specified in Section R156-11a-700.

(11) Any hours obtained while enrolled in a barber school or a cosmetology/barber school shall not be used to satisfy the required 1,250 hours of apprentice training.

(12) An instructor may not begin a new apprenticeship until:

(a) the current apprentice passes the National Interstate Council of State Boards of Cosmetology (NIC) Barber Theory and Practical Examinations and becomes licensed as a barber; or

(b) the Division receives a Notice of Disassociation Form by the apprentice or instructor.

(13) If an apprentice completes the apprenticeship and fails ~~[the National Interstate Council of State Boards of Cosmetology (NIC)]~~ Barber Theory Examination or NIC Barber ~~and~~ Practical Examination[s] three times, the apprentice and instructor must:

(a) ~~[the apprentice and instructor must]~~ meet with the Board at the next appropriate Board meeting;

(b) explain to the Board why the apprentice is not able to pass the examination; and

(c) provide to the Board a plan of study in the appropriate subject matter to assist the apprentice in passing the examination.

**R156-11a-801. Approved Cosmetologist/Barber Apprenticeship Requirements.**

In accordance with Subsection 58-11a-102(1), the requirements for an approved cosmetolog~~y~~<sup>ist</sup>/barber apprenticeship include:

(1) The instructor shall have only one apprentice at a time.

(2) The apprentice shall be registered with the Division by submitting a form prescribed by the Division.

(3) The instructor must be approved by the Division for the apprenticeship.

(4) There shall be a conspicuous sign near the work station of the apprentice stating "Apprentice in Training".

(5) The instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services which will document the total number of hours of training. The record shall be available to the Division upon request.

(6) A complete set of cosmetology/barber texts shall be available to the apprentice.

(7) An apprentice may be compensated for services performed.

(8) The instructor shall provide training and technical instruction of 2,500 hours using the curriculum defined in Section R156-11a-705.

(9) The instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

(10) An apprentice shall not perform work on the public until the apprentice has received at least 10% of the hours of technical training, with at least a portion of that time devoted to each of the subjects specified in Section R156-11a-705.

(11) Hours obtained while enrolled in a cosmetology/barber school shall not be used to satisfy the required 2,500 hours of apprentice training.

(12) An instructor may not begin a new apprenticeship until:

(a) the current apprentice passes the National Interstate Council of State Boards of Cosmetology (NIC) Cosmetology/Barber Theory and Practical Examinations and becomes licensed as a cosmetologist/barber; or

(b) the Division receives a Notice of Disassociation Form by the apprentice or instructor.

(13) If an apprentice completes the apprenticeship and fails the ~~[National Interstate Council of State Boards of Cosmetology (NIC)]~~ Barber/Cosmetology ~~[Barber]~~ Theory Examination or NIC Barber/Cosmetology ~~[and]~~ Practical Examination[s] three times, the apprentice and instructor must:

(a) ~~[the apprentice and instructor must]~~ meet with the Board at the next appropriate Board meeting;

(b) explain to the Board why the apprentice is not able to pass the examination; and

(c) provide to the Board a plan of study in the appropriate subject matter to assist the apprentice in passing the examination.

#### **R156-11a-802. Approved Basic Esthetician Apprenticeship Requirements.**

In accordance with Subsection 58-11a-102(2), the requirements for an approved basic esthetician apprenticeship include:

(1) The instructor shall have no more than one apprentice at a time.

(2) The apprentice shall be registered with the Division by submitting a form prescribed by the Division.

(3) The instructor must be approved by the Division for the apprenticeship.

(4) There shall be a conspicuous sign near the workstation of the apprentice stating, "Apprentice in Training".

(5) The instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services, which will document the total number of hours of training. The record shall be available to the Division upon request.

(6) A complete set of esthetics texts shall be available to the apprentice.

(7) An apprentice may be compensated for services performed.

(8) The instructor shall provide training and technical instruction of 800 hours using the curriculum defined in Section R156-11a-702.

(9) The instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

(10) An apprentice shall not perform work on the public until the apprentice has received at least 10% of the hours required in technical training, with at least a portion of that time devoted to each of the subjects specified in Section R156-11a-702.

(11) Hours obtained while enrolled in an esthetics school or a cosmetology/barber school shall not be used to satisfy the required 800 hours of apprentice training.

(12) An instructor may not begin a new apprenticeship until:

(a) the current apprentice passes the National Interstate Council of State Boards of Cosmetology (NIC) Esthetics Theory and Practical Examinations and becomes licensed as an esthetician; or

(b) the Division receives a Notice of Disassociation Form by the apprentice or instructor.

(13) If an apprentice completes the apprenticeship and fails the ~~[National Interstate Council of State Boards of Cosmetology (NIC)]~~ Esthetics Theory Examination or NIC Esthetics ~~[and]~~ Practical Examination[s] three times, the apprentice and instructor must:

(a) ~~[the apprentice and instructor must]~~ meet with the Board at the next appropriate Board meeting;

(b) explain to the Board why the apprentice is not able to pass the examination; and

(c) provide to the Board a plan of study in the appropriate subject matter to assist the apprentice in passing the examination.

#### **R156-11a-803. Approved Master Esthetician Apprenticeship Requirements.**

In accordance with Subsection 58-11a-102(3), the requirements for an approved master esthetician apprenticeship include:

(1) The instructor shall have no more than one apprentice at a time.

(2) The apprentice shall be registered with the Division by submitting a form prescribed by the Division.

(3) The instructor must be approved by the Division for the apprenticeship.

(4) There shall be a conspicuous sign near the workstation of the apprentice stating, "Apprentice in Training."

(5) The instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services, which will document the total number of hours of training. The record shall be available to the Division upon request.

(6) A complete set of esthetics texts shall be available to the apprentice.

(7) An apprentice may be compensated for services performed.

(8) The instructor shall provide training and technical instruction of 1,500 hours using the curriculum defined in Section R156-11a-703.

(9) The instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

(10) An apprentice shall not perform work on the public until the apprentice has received at least 10% of the required hours

of technical training, with at least a portion of that time devoted to each of the subjects specified in Subsection R156-11a-703.

(11) Hours obtained while enrolled in an esthetics school or a cosmetology/barber school shall not be used to satisfy the required 1,500 hours of apprentice training.

(12) An instructor may not begin a new apprenticeship until:

(a) the current apprentice passes the National Interstate Council of State Boards of Cosmetology (NIC) Master Esthetics Theory and Practical Examinations and becomes licensed as a master esthetician; or

(b) the Division receives a Notice of Disassociation Form by the apprentice or instructor.

(13) If an apprentice completes the apprenticeship and fails the [~~National Interstate Council of State Boards of Cosmetology~~] [~~NIC~~] Master Esthetics Theory Examination or NIC Master Esthetics [~~and~~] Practical Examination[s] three times, the apprentice and instructor must:

(a) [~~the apprentice and instructor must~~] meet with the Board at the next appropriate Board meeting;

(b) explain to the Board why the apprentice is not able to pass the examination; and

(c) provide to the Board a plan of study in the appropriate subject matter to assist the apprentice in passing the examination.

#### **R156-11a-804. Approved Nail Technician Apprenticeship Requirements.**

In accordance with Subsection 58-11a-102(4), the requirements for an approved nail technician apprenticeship include:

(1) The instructor shall have no more than two apprentices at a time.

(2) The apprentice shall be registered with the Division by submitting a form prescribed by the Division.

(3) The instructor must be approved by the Division for the apprenticeship.

(4) There shall be a conspicuous sign near the workstation of the apprentice stating, "Apprentice in Training."

(5) The instructor and apprentice shall keep a daily record, which shall include the hours of theory instruction, the hours of practical instruction, the number and type of client services performed, and other services, which will document the total number of hours of training. The record shall be available to the Division upon request.

(6) A complete set of nail technician texts shall be available to the apprentice.

(7) An apprentice may be compensated for services performed.

(8) The instructor shall provide training and technical instruction of 375 hours using the curriculum defined in Section R156-11a-704.

(9) The instructor shall limit the training of the apprentice to not more than 40 hours per week and not more than five days out of every seven consecutive days.

(10) An apprentice shall not perform work on the public until the apprentice has received at least 10% of the hours of technical training, with at least a portion of that time devoted to each of the subjects specified in Subsection R156-11a-704.

(11) Hours obtained while enrolled in a nail technology school or a cosmetology/barber school shall not be used to satisfy the required 375 hours of apprentice training.

(12) An instructor may not begin a new apprenticeship until:

(a) the current apprentice passes the National [~~Interstate Council of State Boards of Cosmetology~~] (NIC) Nail Technology Theory and Practical Examinations and becomes licensed as a nail technician; or

(b) the Division receives a Notice of Disassociation Form by the apprentice or instructor.

(13) If an apprentice completes the apprenticeship and fails the [~~National Interstate Council of State Boards of Cosmetology~~] [~~NIC~~] Nail Technology Theory Examination or NIC Nail Technology [~~and~~] Practical Examination[s] three times, the apprentice and instructor must:

(a) [~~the apprentice and instructor must~~] meet with the Board at the next appropriate Board meeting;

(b) explain to the Board why the apprentice is not able to pass the examination; and

(c) provide to the Board a plan of study in the appropriate subject matter to assist the apprentice in passing the examination.

#### **R156-11a-902. Standards for an On-the-Job Instructor Training.**

(1) In accordance with Subsections 58-11a-302(2)(e)(ii), ~~58-11a-302(5)(e)(ii), 58-11a-302(8)(e)(ii), 58-11a-302(12)(e)(ii), and 58-11a-302(15)(e)(ii), and 58-11a-302(18)(e)(ii)~~, an employee of a licensed barber, cosmetology/barber, electrology, esthetics, hair design or nail technology school may obtain on-the-job training to become a licensed instructor if they meet the following requirements of this section.

(2) The on-the-job instructor training shall be under the supervision of an instructor licensed as an instructor in the same category as the trainee, except that an instructor providing on-the-job instructor training supervision for basic esthetics instruction shall be licensed as a master esthetician.

(3) The instructor trainee shall have an active license in the same category for which the instructor trainee is seeking licensure to instruct, except an instructor trainee receiving on-the-job training to instruct basic esthetics shall be licensed as a master esthetician.

(4) The on-the-job instructor training shall include all of the following categories:

(a) motivation and the learning process;

(b) teacher preparation;

(c) teaching methods;

(d) classroom management;

(e) testing;

(f) instructional evaluation;

(g) laws, rules, and regulations; and

(h) [~~Utah~~] Barber, Cosmetology/Barber, Esthetics (Master level), Electrology, Hair Design and Nail Technology Instructors Examination review.

(5) The instructor trainee shall not count toward the instructor-to-student ratio.

(6) The on-the-job instructor training shall be completed within one year, unless the instructor trainee provides

documentation of extenuating circumstances justifying an extension.

**KEY: cosmetologists/barbers, estheticians, electrologists, nail technicians**

**Date of Enactment or Last Substantive Amendment: [March 27,]2017**

**Notice of Continuation: January 19, 2017**

**Authorizing, and Implemented or Interpreted Law: 58-11a-101; 58-1-106(1)(a); 58-1-202(1)(a)**

## Education, Administration R277-113-6 Required LEA Fiscal Policies

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42026

FILED: 08/15/2017

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Section R277-113-6 is amended to provide additional requirements for a local education agency's (LEA's) fiscal policy to include in the LEA's required expenditure policy regarding the management and use of public funds.

**SUMMARY OF THE RULE OR CHANGE:** A new requirement is provided to establish internal controls and procedures to record transactions when they occur in the proper program utilizing specific codes established by the Board approved chart of accounts.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Art X Sec 3 and Section 53A-1-401 and Section 53A-1-402(1)(e)

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The amendments to Section R277-113-6 will likely not result in a cost or savings to the state budget. The amendments to this rule provide for additional internal controls and procedures that will be beneficial in the management and use of public funds.

◆ **LOCAL GOVERNMENTS:** The amendments to Section R277-113-6 will likely not result in a cost or savings to local government. The amendments to this rule provide for LEAs to implement additional internal controls and procedures that will be beneficial in the management and use of public funds.

◆ **SMALL BUSINESSES:** The amendments to Section R277-113-6 will likely not result in a cost or savings to small businesses. The amendments to this rule provide for additional internal controls and procedures that will be beneficial in the management and use of public funds and do not apply to businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The amendments to Section R277-113-6 will likely not result in a cost or savings to the persons other than small businesses, businesses, or local government entities. The amendments to this rule provide for additional internal controls and procedures that will be beneficial in the management and use of public funds.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The amendments to Section R277-113-6 will likely not result in any compliance costs for affected persons. The amendments to this rule provide for additional internal controls and procedures that will be beneficial in the management and use of public funds.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After conducting a thorough analysis, it was determined that the amendments to this rule will not result in a fiscal impact to businesses.

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

EDUCATION

ADMINISTRATION

250 E 500 S

SALT LAKE CITY, UT 84111-3272

or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

◆ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at [angie.stallings@schools.utah.gov](mailto:angie.stallings@schools.utah.gov)

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/02/2017**

**THIS RULE MAY BECOME EFFECTIVE ON: 10/09/2017**

**AUTHORIZED BY:** Angela Stallings, Deputy Superintendent, Policy and Communication

### **R277. Education, Administration.**

#### **R277 113. LEA Fiscal and Auditing Policies.**

#### **R277-113-6. Required LEA Fiscal Policies.**

(1)(a) An LEA shall ensure that the LEA's fiscal policies address all applicable Utah Code references or Board Rules.

(b) The requirements set forth in this Section R277-113-6 are minimum requirements.

(c) An LEA may include other related items, provide LEA specific policy and guidance, and set policies that are more restrictive and inclusive than the minimum provisions established by Board rule.

(2) LEA fiscal policies shall include the following:



(a) a cash handling policy, which shall address cash receipts (cash, checks, credit cards, and other items) collected at the LEA and individual public schools and shall include:

(i) establishment of internal controls and procedures over the collection, deposit, and reconciliation of cash receipts received; and

(ii) compliance with Utah Code 51-4-2(2) regarding deposits.

(b) an expenditure policy, which shall address all expenditures made by the LEA and individual public schools and shall include:

(i) establishment of internal controls and procedures over the initiation, approval and monitoring of expenditures, including:

- (A) credit, debit, or purchase card transactions;
- (B) employee reimbursements;
- (C) travel; and
- (D) payroll;

(ii) establishment of internal controls and procedures to record transactions when they occur in the proper program utilizing the following codes as established by the Board approved chart of accounts:

- \_\_\_\_\_ (A) fund;
- \_\_\_\_\_ (B) function;
- \_\_\_\_\_ (C) location;
- \_\_\_\_\_ (D) program; and
- \_\_\_\_\_ (E) object or revenue code as applicable;

(iii) directives regarding the appropriate use of the LEA's tax exempt status number;

(i) compliance with Section 63G-6a-1204 regarding length of multi-year contracts;

(ii) compliance with:

- (A) Title 63G, Chapter 6a;
- (B) Board rule regarding construction and improvements;

and

- (C) Title IX;
- (vi) requirements for LEA contracts, including:
  - (A) inclusion of specific scope of work language;
  - (B) inclusion of federal requirements;
  - (C) inclusion of language regarding data privacy and use, where appropriate; and

(D) legal review prior to LEA approval; and

(vii) procedures and documentation maintained by the LEA if the LEA chooses to enter into exclusive contracts or arrangements consistent with state procurement law and the LEA procurement policy.

(c) a fundraising policy that:

(i) establishes procedures for LEA and public school fundraising in general;

(ii) establishes an approval process for fundraising activities for school sponsored activities;

(iii) provides for compliance with school fee and fee waiver provisions; and

(iv) includes:

(A) specific designation of employees by title or job description who are authorized to approve fundraising, school sponsored activities, and grant fee waivers with appropriate attention to student and family confidentiality;

(B) establishment of internal controls and procedures over the approval of fundraising and school sponsored activities and compliance with associated cash handling and expenditure policies;

(C) directives regarding the appropriate use of the LEA's tax exempt status number and issuance of charitable donation receipts;

(D) procedures governing LEA or public school employee interaction with parents, donors, and nonschool sponsored organizations;

(E) disclosure requirements for LEA and public school employees approving, managing, or overseeing fundraising activities, who also have a financial or controlling interest or access to bank accounts in the fundraising organization or company;

(F) Provisions establishing compliance with:

- (I) Utah Constitution, Article X, Section 2, establishing a free public education system;
- (II) R277-407; and
- (III) Title IX;

(v) An LEA may include procedures governing:

(A) student participation and incentives offered to students;

(B) allowable types of fundraising activities; and

(C) participation in school sponsored activities by volunteer or outside organizations;

(d) an LEA donation and gift policy that includes:

(i) an acceptance and approval process for:

- (A) monetary donations;
- (B) donations and gifts with donor restrictions;
- (C) donations of gifts, goods, materials, or equipment;

and

(D) donation of funds or items designated for construction or improvements of facilities;

(ii) establishment of internal controls and procedures over the acceptance and approval of donations and gifts and compliance with associated cash handling and expenditure policies;

(iii) directives regarding the appropriate use of the LEA's tax exempt status number, and issuance of charitable donation receipts;

(iv) procedures regarding the objective valuation of donations or gifts if advertising or other services are offered to the donor in exchange for a donation or gift;

(v) procedures governing LEA or public school employee conduct with parents, donors, and nonschool sponsored organizations;

(vi) procedures establishing provisions for direct donations or gifts to the LEA or LEA programs, individual public school or public school programs;

(vii) provisions restricting donations from being directed at specific LEA employees, individual students, vendors, or brand name goods or services;

(viii) compliance with:

- (A) Title 63G, Chapter 6a;
- (B) state law and Board rule regarding construction and improvements;
- (C) IRS regulations and tax deductible directives; and
- (D) Title IX;
- (ix) procedures for:

(A) accepting donations and gifts through an LEA's legally organized foundation, if applicable;

(B) recognition of donors; or

(C) granting naming rights; and

(e) an LEA Financial Reporting policy, which shall include the following:

(i) a requirement that the LEA shall ensure financial reporting in accordance with GAAP and audits of LEA financial reporting in accordance with GAAS;

(ii)(A) a requirement that the LEA shall provide financial reporting in a manner consistent with the basis of accounting as required by GAAP, as applicable to the entity; and

(B) if an LEA follows FASB standards, a requirement that the LEA shall provide reconciliation between the accrual basis of accounting and modified accrual basis of accounting; and

(iii) a requirement that the LEA shall provide data and information consistent with budgeting, accounting, including the uniform chart of accounts for LEAs, and auditing standards for Utah LEAs provided online annually by the Superintendent.

(3) The Superintendent shall maintain a School Finance website with applicable Utah statutes, Board rules, and uniform rules for:

(a) budgeting;

(b) financial accounting, including a chart of accounts required for an LEA;

(c) student membership and attendance accounting;

(d) indirect costs and proration;

(e) financial audits;

(f) statistical audits; and

(g) compliance and performance audits.

**KEY: school sponsored activities, public funds, fiscal policies and procedures, audit committee**

**Date of Enactment or Last Substantive Amendment: [February 7, 2017]**

**Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53A-1-401; 53A-1-402(1)(e)**

## Education, Administration R277-700

### The Elementary and Secondary School General Core

#### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42027

FILED: 08/15/2017

#### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R277-700 is amended to provide flexibility to LEAs to establish junior high and middle school course requirements.

SUMMARY OF THE RULE OR CHANGE: The amendments to Rule R277-700 eliminate the requirement that students complete certain 7th and 8th grade courses before moving to high school but require LEAs to continue to offer the courses for students to enroll in. The amendments also allow LEAs to: 1) offer additional elective courses than those required in the rule; 2) require a student to complete additional courses; or 3) set minimum credit requirements.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art X Sec 3 and Section 53A-1-401 and Section 53A-1-402 and Section 53A-1-402.6 and Section 53A-13-109.5 and Title 53A, Chapter 1, Part 12

#### ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: The amendments to Rule R277-700 will likely not result in a cost or savings to local government. While certain 7th and 8th grade courses are no longer required for students to complete before moving on to high school, LEAs will still be required to make the courses available to students. LEAs may also require additional courses.

◆ LOCAL GOVERNMENTS: The amendments to Rule R277-700 will likely not result in a cost or savings to local government. While certain 7th and 8th grade courses are no longer required for students to complete before moving on to high school, LEAs will still be required to make the courses available to students. LEAs may also require additional courses.

◆ SMALL BUSINESSES: The amendments to Rule R277-700 will likely not result in a cost or savings to small businesses. The amendments to this rule provide for more flexibility to students and LEAs on 7th and 8th grade course requirement and will not impact businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The amendments to Rule R277-700 will likely not result in a cost or savings to persons other than small businesses, businesses, or local government entities. The amendments to this rule provide for more flexibility to students and LEAs on 7th and 8th grade course requirement and will not impact persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendments to Rule R277-700 will likely not result in any compliance costs for affected persons. The amendments to this rule provide for more flexibility for students and LEAs to establish 7th and 8th grade course requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that the amendments to this rule will not result in a fiscal impact to businesses.

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

ADMINISTRATION  
250 E 500 S  
SALT LAKE CITY, UT 84111-3272  
or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

♦ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at [angie.stallings@schools.utah.gov](mailto:angie.stallings@schools.utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/02/2017

THIS RULE MAY BECOME EFFECTIVE ON: 10/09/2017

AUTHORIZED BY: Angela Stallings, Deputy Superintendent, Policy and Communication

**R277. Education, Administration.**

**R277-700. The Elementary and Secondary School General Core.**

**R277-700-1. Authority and Purpose.**

(1) This rule is authorized by:

(a) ~~[Article X, Section 3, of the Utah Constitution, which places general control and supervision of the public schools under the Board]~~ Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53A-1-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

~~\_\_\_\_\_~~ ~~(b)c~~ S[ub]section 53A-1-402[~~(+)~~], which directs the Board to make rules regarding competency levels, graduation requirements, curriculum, and instruction requirements;

(~~e~~)~~d~~ Section 53A-1-402.6, which directs;

(i) the Board to establish Core Standards in consultation with LEA boards and superintendents; and

(ii) ~~[directs]~~ LEA boards to adopt local curriculum and to design programs to help students master the General Core;

(~~d~~)~~e~~ Title 53A, Chapter 1, Part 12, Career and College Readiness Mathematics Competency, which directs the Board to establish college and career mathematics competency standards; and

(~~e~~)~~f~~ Section 53A-13-109.5, which requires the Board to provide rules related to a basic civics test; ~~and~~

~~\_\_\_\_\_~~ ~~(f) Section 53A-1-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law].~~

(2) The purpose of this rule is to specify the minimum Core Standards and General Core requirements for the public schools, and to establish responsibility for mastery of Core Standard requirements.

**R277-700-2. Definitions.**

For purposes of this rule:

(1)(a) "Applied course" means a public school course or class that applies the concepts of a Core subject.

(b) "Applied course" includes a course offered through Career and Technical Education or through other areas of the curriculum.

(2) "Assessment" means a summative computer adaptive assessment for:

(a) English language arts grades 3 through 11;

(b) mathematics grades 3 through 8, and Secondary I, II, and III; or

(c) science grades 4 through 8, earth science, biology, physics and chemistry.

(3) "Career and Technical Education (CTE)" means an organized educational program or course which directly or indirectly prepares students for employment, or for additional preparation leading to employment, in an occupation, where entry requirements generally do not require a baccalaureate or advanced degree.

(4) "Core Standard" means a statement of what a student enrolled in a public school is expected to know and be able to do at a specific grade level or following completion of an identified course.

(5) "Core subject" means a course for which there is a declared set of Core Standards as approved by the Board.

(6) "Elementary school" for purposes of this rule means a school that serves grades K-6 in whatever kind of school the grade levels exist.

(7) "General Core" means the courses, content, instructional elements, materials, resources and pedagogy that are used to teach the Core Standards, including the ideas, knowledge, practice and skills that support the Core Standards.

(8) "High school" for purposes of this rule means a school that serves grades 9-12 in whatever kind of school the grade levels exist.

(9) "LEA" or "local education agency" includes the Utah Schools for the Deaf and the Blind.

(10) "Life Skills document" means a companion document to the Core Standards that describes the knowledge, skills, and dispositions essential for all students; the life skills training helps students transfer academic learning into a comprehensive education.

(11) "Middle school" for purposes of this rule means a school that serves grades 7-8 in whatever kind of school the grade levels exist.

(12) "Summative adaptive assessment" means an assessment that:

(a) is administered upon completion of instruction to assess a student's achievement;

(b) is administered online under the direct supervision of a licensed educator;

(c) is designed to identify student achievement on the Core Standards for the respective grade and course; and

(d) measures the full range of student ability by adapting to each student's responses, selecting more difficult questions when a student answers correctly and less difficult questions when a student answers incorrectly.

(13) "World language" means the same as that term is defined in Section R277-499-2.

**R277-700-3. General Core and Core Standards.**

(1) The Board establishes minimum course description standards for each course in the required General Core.

(2)(a) The Superintendent shall develop, in cooperation with LEAs, course descriptions for required and elective courses.

(b) The Superintendent shall provide parents and the general public an opportunity to participate in the development process of the course descriptions described in Subsection (2)(a).

(3)(a) The Superintendent shall ensure that the courses described in Subsection (2):

(i) contain mastery criteria for the courses; and

(ii) stress mastery of the course material, Core Standards, and life skills consistent with the General Core and Life Skills document.

(b) The Superintendent shall place a greater emphasis on a student's mastery of course material rather than completion of predetermined time allotments for courses.

(4) An LEA board shall administer the General Core and comply with student assessment procedures consistent with state law.

**R277-700-4. Elementary Education Requirements.**

(1) The Core Standards and a General Core for elementary school students in grades K-6 are described in this section.

(2) The following are the Elementary School Education Core Subject Requirements:

(a) English Language Arts;

(b) Mathematics;

(c) Science;

(d) Social Studies;

(e) Arts:

(i) Visual Arts;

(ii) Music;

(iii) Dance; or

(iv) Theatre;

(f) Health Education;

(g) Physical Education;

(h) Educational Technology; and

(i) Library Media.

(3) An LEA board shall provide access to the General Core to all students within the LEA.

(4) An LEA board is responsible for student mastery of the Core Standards.

(5) An LEA shall conduct informal assessments on a regular basis to ensure continual student progress.

(6) An LEA shall use Board-approved summative adaptive assessments to assess student mastery of the following:

(a) reading;

(b) language arts;

(c) mathematics;

(d) science; and

(e) effectiveness of written expression in grades five and eight.

(7) An LEA shall provide remediation to elementary students who do not achieve mastery of the subjects described in this section.

**R277-700-5. Middle School Education Requirements.**

(1) The Core Standards and a General Core for middle school students are described in this section.

(2) A student in grades 7-8 is required to ~~earn a minimum of 12 units of credit~~ complete the courses described in Subsection (3) to be properly prepared for instruction in grades 9-12.

~~[(3) In addition to the Board requirements described in this section, an LEA board may require a student to complete additional units of credit.~~

~~[(4)3] The following are the Grades 7-8 General Core Requirements[and units of credit]:~~

~~(a) Grade 7 Language Arts[-(2.0 units of credit)];~~

~~(b) Grade 8 Language Arts;~~

~~[(b)c] Grade 7 Mathematics[-(2.0 units of credit)];~~

~~(d) Grade 8 Mathematics;~~

~~[(e)e] Grade 7 Integrated Science[-(2.0 units of credit)];~~

~~(f) Grade 8 Integrated Science;~~

~~[(d)g] [Social Studies (1.5 units of credit)]United States History; and~~

~~(h) Utah History.~~

~~[(e) The Arts (1.0 units of credit from the following):~~

~~(i) Visual Arts;~~

~~(ii) Music;~~

~~(iii) Dance; or~~

~~(iv) Theatre;~~

~~(f) Physical Education (1.0 units of credit);~~

~~(g) Health Education (0.5 units of credit);~~

~~(h) College and Career Awareness (1.0 units of credit);~~

~~and~~

~~(i) beginning no later than the 2018-2019 school year, Digital Literacy (0.5 units of credit).]~~

~~(4) An LEA board shall provide access to the General Core to all students within the LEA.~~

~~(5) An LEA shall conduct informal assessments on a regular basis to ensure continual student progress.~~

~~(6) An LEA shall provide remediation to middle school students who do not achieve mastery of the subjects described in Subsection (3).~~

~~[(5)7] An LEA shall use evidence-based best practices, technology, and other instructional media in middle school curricula to increase the relevance and quality of instruction.~~

~~[(6)8] An LEA shall use Board-approved summative adaptive assessments to assess student mastery of the following:~~

~~(a) reading;~~

~~(b) language arts;~~

~~(c) mathematics; and~~

~~(d) science[~~in grades 7 and 8~~].~~

~~(9) An LEA shall offer, by making the course available through the registration process, the following courses aligned with Core Standards for students in grades 7 and 8:~~

~~(a) at least two of the following arts courses:~~

~~(i) Visual Arts;~~

~~(ii) Music;~~

~~(iii) Dance;~~

~~(iv) Theatre; or~~

~~(v) Media Arts;~~

- (b) Physical Education;
- (c) Health Education;
- (d) College and Career Awareness; and
- (e) beginning no later than the 2018-19 school year;
- (i) Digital Literacy; and
- (ii) at least one of the World Languages.
- (10) An LEA may integrate one or more of the courses if the LEA ensures all Core Standards from each course are taught in entirety.
- (11) At the discretion of the LEA board, an LEA board may:
  - (a) offer additional elective courses;
  - (b) require a student to complete additional courses; or
  - (c) set minimum credit requirements.

**R277-700-6. High School Requirements.**

- (1) The General Core and Core Standards for students in grades 9-12 are described in this section.
- (2) A student in grades 9-12 is required to earn a minimum of 24 units of credit through course completion or through competency assessment consistent with R277-705 to graduate.
- (3) The General Core credit requirements from courses approved by the Board are described in Subsections (4) through (18).
- (4) Language Arts (4.0 units of credit from the following):
- (a) Grade 9 level (1.0 unit of credit);
  - (b) Grade 10 level (1.0 unit of credit);
  - (c) Grade 11 level (1.0 unit of credit); and
  - (d) Grade 12 level (1.0 Unit of credit) consisting of applied or advanced language arts credit from the list of Board-approved courses using the following criteria and consistent with the student's [SEOP/]Plan for College and Career Readiness:
    - (i) courses are within the field/discipline of language arts with a significant portion of instruction aligned to language arts content, principles, knowledge, and skills;
    - (ii) courses provide instruction that leads to student understanding of the nature and disposition of language arts;
    - (iii) courses apply the fundamental concepts and skills of language arts;
    - (iv) courses provide developmentally appropriate content; and
    - (v) courses develop skills in reading, writing, listening, speaking, and presentation.
- (5) Mathematics (3.0 units of credit) shall be met minimally through successful completion of a combination of the foundation or foundation honors courses, Secondary Mathematics I, Secondary Mathematics II, and Secondary Mathematics III.
- (6)(a) A student may opt out of Secondary Mathematics III if the student's parent submits a written request to the school.
- (b) If a student's parent requests an opt out described in Subsection (6)(a), the student is required to complete a third math credit from the Board-approved mathematics list.
- (7) A 7th or 8th grade student may earn credit for a mathematics foundation course before 9th grade, consistent with the student's [SEOP/]Plan for College and Career Readiness if:
- (a) the student is identified as gifted in mathematics on at least two different [USOE]Board-approved assessments;

- (b) the student is dual enrolled at the middle school/junior high school and the high school;
  - (c) the student qualifies for promotion one or two grade levels above the student's age group and is placed in 9th grade; or
  - (d) the student takes the [USOE]Board competency test in the summer prior to 9th grade and earns high school graduation credit for the course.
- (8) A student who successfully completes a mathematics foundation course before 9th grade is required to earn 3.0 units of additional mathematics credit by:
- (a) taking the other mathematics foundation courses described in Subsection (5); and
  - (b) an additional course from the Board-approved mathematics list consistent with:
    - (i) the student's [SEOP/]Plan for College and Career Readiness; and
    - (ii) the following criteria:
      - (A) courses are within the field/discipline of mathematics with a significant portion of instruction aligned to mathematics content, principles, knowledge, and skills;
      - (B) courses provide instruction that lead to student understanding of the nature and disposition of mathematics;
      - (C) courses apply the fundamental concepts and skills of mathematics;
      - (D) courses provide developmentally appropriate content; and
      - (E) courses include the five process skills of mathematics: problem solving, reasoning, communication, connections, and representation.
- (9) A student who successfully completes a Calculus course with a "C" grade or higher has completed mathematics graduation requirements, regardless of the number of mathematics credits earned.
- (10) Science (3.0 units of credit):
- (a) shall be met minimally through successful completion of 2.0 units of credit from two of the following five science foundation areas:
    - (i) Earth Science (1.0 units of credit);
      - (A) Earth Science;
      - (B) Advanced Placement Environmental Science; or
      - (C) International Baccalaureate Environmental Systems;
    - (ii) Biological Science (1.0 units of credit);
      - (A) Biology;
      - (B) Human Biology;
      - (C) Biology: Agricultural Science & Technology;
      - (D) Advanced Placement Biology;
      - (E) International Baccalaureate Biology; or
      - (F) Biology with Lab Concurrent Enrollment;
    - (iii) Chemistry (1.0 units of credit);
      - (A) Chemistry;
      - (B) Advanced Placement Chemistry;
      - (C) International Baccalaureate Chemistry; or
      - (D) Chemistry with Lab Concurrent Enrollment;
    - (iv) Physics (1.0 units of credit);
      - (A) Physics;
      - (B) Physics with Technology;
      - (C) Advanced Placement Physics (1, 2, C: Electricity and Magnetism, or C: Mechanics);
      - (D) International Baccalaureate Physics; or

(E) Physics with Lab Concurrent Enrollment; or  
 (v) Computer Science (1.0 units of credit);  
 (A) Advanced Placement Computer Science;  
 (B) Computer Science Principles; or  
 (C) Computer Programming II; and  
 (b) one additional unit of credit from:  
 (i) the foundation courses described in Subsection(10)(a);

or

(ii) the applied or advanced science list:  
 (A) determined by the LEA board; and  
 (B) approved by the Board using the following criteria and consistent with the student's [SEOP]Plan for College and Career Readiness:

(i) courses are within the field/discipline of science with a significant portion of instruction aligned to science content, principles, knowledge, and skills;

(ii) courses provide instruction that leads to student understanding of the nature and disposition of science;

(iii) courses apply the fundamental concepts and skills of science;

(iv) courses provide developmentally appropriate content;  
 (v) courses include the areas of physical, natural, or applied sciences; and

(vi) courses develop students' skills in scientific inquiry.

(11) Social Studies (3.0 units of credit) shall be met minimally through successful completion of:

(a) 2.5 units of credit from the following courses:

(i) Geography for Life (0.5 units of credit);

(ii) World Civilizations (0.5 units of credit);

(iii) U.S. History (1.0 units of credit); and

(iv) U.S. Government and Citizenship (0.5 units of

credit);

(b) Social Studies (0.5 units of credit per LEA discretion); and

(c) a basic civics test or alternate assessment described in R277-700-8.

(12) The Arts (1.5 units of credit from any of the following performance areas):

(a) Visual Arts;

(b) Music;

(c) Dance; or

(d) Theatre.

(13) Physical and Health Education (2.0 units of credit from any of the following):

(a) Health (0.5 units of credit);

(b) Participation Skills (0.5 units of credit);

(c) Fitness for Life (0.5 units of credit);

(d) Individualized Lifetime Activities (0.5 units of credit); or

(e) team sport/athletic participation (maximum of 0.5 units of credit with school approval).

(14) Career and Technical Education (1.0 units of credit from any of the following):

(a) Agriculture;

(b) Business;

(c) Family and Consumer Sciences;

(d) Health Science and Technology;

(e) Information Technology;

(f) Marketing;

(g) Technology and Engineering Education; or

(h) Trade and Technical Education.

(15) Digital Studies (0.5 units of credit).

(16)Library Media Skills (integrated into the subject areas).

(17) General Financial Literacy (0.5 units of credit).

(18) Electives (5.5 units of credit).

(19) An LEA shall use Board-approved summative adaptive assessments to assess student mastery of the following subjects:

(a) reading;

(b) language arts through grade 11;

(c) mathematics as defined in Subsection (5); and

(d) science as defined in Subsection (10).

(20) An LEA board may require a student to earn credits for graduation that exceed the minimum Board requirements described in this rule.

(21) An LEA board may establish and offer additional elective course offerings at the discretion of the LEA board.

(22)(a) An LEA may modify a student's graduation requirements to meet the unique educational needs of a student if:

(i) the student has a disability; and

(ii) the modifications to the student's graduation requirements are made through the student's individual IEP.

(b) An LEA shall document the nature and extent of a modification, substitution, or exemption made to a student's graduation requirements described in Subsection (22)(a) in the student's IEP.

(23) The Board and Superintendent may review an LEA board's list of approved courses for compliance with this rule.

(24) An LEA may modify graduation requirements for an individual student to achieve an appropriate route to student success if the modification:

(a) is consistent with:

(i) the student's IEP; or

(ii) [SEOP]Plan for College and Career Readiness;

(b) is maintained in the student's file;

(c) includes the parent's signature; and

(d) maintains the integrity and rigor expected for high school graduation, as determined by the Board.

#### **R277-700-7. Student Mastery and Assessment of Core Standards.**

(1) An LEA shall ensure students master the Core Standards at all levels.

(2) An LEA shall provide remediation for secondary students who do not achieve mastery ~~under~~ in accordance with Section 53A-13-104.

(3) An LEA shall provide remedial assistance to students who are found to be deficient in basic skills through a statewide assessment in accordance with~~the provisions of~~ Subsection 53A-1-606(1).

(4) If a parent objects to a portion of a course or to a course in its entirety under ~~provisions of~~ Section 53A-13-101.2 and R277-105, the parent shall be responsible for the student's mastery of Core Standards to the satisfaction of the school prior to the student's promotion to the next course or grade level.

(5)(a) A student with a disability served by a special education program is required to demonstrate mastery of the Core Standards.

(b) If a student's disability precludes the student from successfully mastering the Core Standards, the student's IEP team, on a case-by-case basis, may provide the student an accommodation for, or modify the mastery demonstration to accommodate, the student's disability.

(6) A student may demonstrate competency to satisfy course requirements consistent with R277-705-3.

(7) LEAs are ultimately responsible for and shall comply with all assessment procedures, policies and ethics as described in R277-404.

**R277-700-8. Civics Education Initiative.**

(1) For purposes of this section:

(a) "Student" means:

(i) a public school student who graduates on or after January 1, 2016; or

(ii) a student enrolled in an adult education program who receives an adult education secondary diploma on or after January 1, 2016.

(b) "Basic civics test" means the same as that term is defined in Section 53A-13-109.5.

(2) Except as provided in Subsection (3), an LEA shall:

(a) administer a basic civics test in accordance with the requirements of Section 53A-13-109.5; and

(b) require a student to pass the basic civics test as a condition of receiving:

(i) a high school diploma; or

(ii) an adult education secondary diploma.

(3) An LEA may require a student to pass an alternate assessment if:

(a)(i) the student has a disability; and

(ii) the alternate assessment is consistent with the student's IEP; or

(b) the student is within six months of intended graduation.

(4) Except as provided in Subsection (5), the alternate assessment shall be given:

(a) in the same manner as an exam given to an unnaturalized citizen; and

(b) in accordance with 8 C.F.R. Sec. 312.2.

(5) An LEA may modify the manner of the administration of an alternate assessment for a student with a disability in accordance with the student's IEP.

(6) If a student passes a basics civics test or an alternate assessment described in this section, an LEA shall report to the Superintendent that the student passed the basic civics test or alternate assessment.

(7) If a student who passes a basic civics test or an alternate assessment transfers to another LEA, the LEA may not require the student to re-take the basic civics test or alternate assessment.

**R277-700-9. College and Career Readiness Mathematics Competency.**

(1) For purposes of this section, "senior student with a special circumstance" means a student who:

(a) is pursuing a college degree after graduation; and

(b) has not met one of criteria described in Subsection (2) (a) before the beginning of the student's senior year of high school.

(2) Except as provided in Subsection (4), in addition to the graduation requirements described in R277-700-6, beginning with the 2016-17 school year, a student pursuing a college degree after graduation shall:

(a) receive one of the following:

(i) a score of 3 or higher on an Advanced Placement (AP) calculus AB or BC exam;

(ii) a score of 3 or higher on an Advanced Placement (AP) statistics exam;

(iii) a score of 5 or higher on an International Baccalaureate (IB) higher level math exam;

(iv) a score of 50 or higher on a College Level Exam Program (CLEP) pre-calculus or calculus exam;

(v) a score of 26 or higher on the mathematics portion of the American College Test (ACT) exam;

(vi) a score of 640 or higher on the mathematics portion of the Scholastic Aptitude Test (SAT) exam; or

(vii) a "C" grade in a concurrent enrollment mathematics course that satisfies a state system of higher education quantitative literacy requirement; or

(b) if the student is a senior student with a special circumstance, take a full year mathematics course during the student's senior year of high school.

(3) Except as provided in Subsection (4), in addition to the graduation requirements described in R277-700-6, beginning with the 2016-17 school year, a non-college and degree-seeking student shall complete appropriate math competencies for the student's career goals as described in the student's [SEOP]Plan for College and Career Readiness.

(4) An LEA may modify a student's college or career readiness mathematics competency requirement under this section if:

(a) the student has a disability; and

(b) the modification to the student's college or career readiness mathematics competency requirement is made through the student's IEP.

(5)(a) Beginning with the 2016-17 cohort, an LEA shall report annually to the LEA's governing board the number of students within the LEA who:

(i) meet the criteria described in Subsection (2)(a);

(ii) take a full year of mathematics as described in Subsection (2)(b);

(iii) meet appropriate math competencies as established in the students' career goals as described in Subsection (3); and

(iv) meet the college or career readiness mathematics competency requirement established in the students' IEP as described in Subsection (4).

(b) An LEA shall provide the information described in Subsection (5)(a) to the Superintendent by October 1 of each year.

**KEY: standards, graduation requirements**

**Date of Enactment or Last Substantive Amendment: [June 21, 2016]2017**

**Notice of Continuation: August 14, 2017**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1)(b); 53A-1-402.6; 53A-1-401**

Education, Administration  
**R277-703**  
 Centennial Scholarship for Early  
 Graduation

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 42028

FILED: 08/15/2017

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: Rule R277-703 is amended due to the passage S.B. 64, Student Scholarship Amendments, from the 2017 General Session. Rule R277-703 is also amended to provide technical and conforming changes in accordance with the Rulewriting Manual for Utah.

SUMMARY OF THE RULE OR CHANGE: The amendments to Rule R277-703 provide procedures and deadlines for students to seek deferrals of scholarships and provide a five-year deadline for students to use the centennial scholarship. Technical and conforming changes are also provided in accordance with the Rulewriting Manual for Utah.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Art X Sec 3 and Section 53A-1-401 and Section 53A-1-402 and Section 53A-15-102

ANTICIPATED COST OR SAVINGS TO:

◆ THE STATE BUDGET: The amendments to Rule R277-703 will likely not result in a cost or savings to the state budget. The amendments to this rule provide for a student to request deferral of a centennial scholarship.

◆ LOCAL GOVERNMENTS: The amendments to Rule R277-703 will likely not result in a cost or savings to local government. The amendments to this rule provide for a student to request deferral of a centennial scholarship.

◆ SMALL BUSINESSES: The amendments to Rule R277-703 will likely not result in a cost or savings to small businesses. The amendments to this rule provide for a student to request deferral of a centennial scholarship, which does not impact businesses.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The amendments to Rule R277-703 will likely not result in a cost or savings to the persons other than small businesses, businesses, or local government entities. The Legislature is expected to adjust program funding in future years for anticipated increases in the number of participating students.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The amendments to Rule R277-703 will likely not result in any compliance costs for affected persons. The amendments to

this rule provide for a student to request deferral of a centennial scholarship.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: After conducting a thorough analysis, it was determined that the amendments to this rule will not result in a fiscal impact to businesses.

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

EDUCATION

ADMINISTRATION

250 E 500 S

SALT LAKE CITY, UT 84111-3272

or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at [angie.stallings@schools.utah.gov](mailto:angie.stallings@schools.utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/02/2017

THIS RULE MAY BECOME EFFECTIVE ON: 10/09/2017

AUTHORIZED BY: Angela Stallings, Deputy Superintendent, Policy and Communication

**R277. Education, Administration.**

**R277-703. Centennial Scholarship for Early Graduation.**

**R277-703-[2]1. Authority and Purpose.**

[A-](1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which [places]vests general control and supervision [of the]over public [school system under]education in the Board[;];

(b) Section 53A-15-102, which requires the Board to make payments to a public school student who graduates early;

(c) Section 53A-1-402[+], which authorizes the Board to make rules regarding competency levels, graduation requirements, curriculum, and instruction requirements; and

(d) Section 53A-1-401[+], which [authorizes]allows the Board to [adopt rules in accordance with its responsibilities]make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

[B-](2) This rule:

(a) designates the [E]early [G]graduation [C]centennial [S]scholarship [C]certificate for use by public schools[;];

(b) allows for graduation to be flexible and appropriate to meet individual students' needs[;]; and

(c) outlines the early graduation procedure.[-If a student graduates any time following the eleventh grade year and enters a Utah post-secondary institution, the LEA shall receive a reimbursement designated for the public high school from which the student graduated early. The post-secondary institution shall



~~receive an Early Graduation Centennial Scholarship Certificate signed by the high school principal/director entitling the early graduate to a partial tuition scholarship following the date of graduation according to the schedule established by this rule.]~~

**R277-703-1.2. Definitions.**

[A.] "ATC" means Applied Technology Center.]

[B.] "Board" means the Utah State Board of Education.]

[C.](1) "Centennial [S]scholarship" or "scholarship" means the amount awarded to an early graduating student ~~[designated]~~ in accordance with Section 53A-15-102.

[D.](2) "LEA" ~~[means a local education agency, including local school boards/public school districts, charter schools, and]~~ includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

[E.] "SEOP" means student education/occupational plan.]

(3) "UCAT" or "technical college" means the Utah System of Technical Colleges listed in Section 53B-2a-105.

**R277-703-3. Curriculum Options for Accelerating a Secondary School Student's Education Program.**

(1) If a student graduates any time before the conclusion of grade 11, or prior to the conclusion of grade 12, the student may receive a reimbursement towards enrollment in a Utah post-secondary institution as described in Section 53A-15-102 and this R277-703.

(2) A post-secondary institution selected by a student who receives a centennial scholarship shall receive a centennial scholarship certificate signed by the high school principal or charter school director entitling the early graduate to a partial tuition scholarship following the date of graduation according to the schedule established by this rule.

[A.](3) A student seeking a centennial scholarship shall complete the courses of study and credit mandated by the Board and by the student's local school board ~~[of education/leaeat]~~ or charter school governing board.

[B.](4) Options for earning additional credit may include ~~[but are not limited to]~~:

([1]a) [C]courses:

([a]i) [H]high school summer school;

([b]ii) [H]high school or [AFC]UCAT early morning or after school classes;

([e]iii) [C]courses completed at the student's own rate based on performance as approved by [f]the local school board[~~of education/leaeat]~~ or charter school governing board[~~is responsible for assessment of mastery, R277-700-6]~~];

([d]iv) [C]college courses numbered ~~[101]1000~~ and above from fully accredited institutions ~~[(concurrent enrollment, extension division, or continuing education classes)]~~;

([e]v) LEA-approved high school or college level correspondence courses; or

([f]vi) [E]equivalency ratio of higher education hours to high school credits: five (5) quarter or three (3) semester hours equal one (1) unit of high school credit[-];

([2]b) [D]demonstrated proficiency by assessment ~~[f]in an amount of credit [to be]as determined by the local school board [of education/leaeat]or charter school governing board[, R277-700-6]~~];

([a]i) [A]advanced [P]placement [E]examination, as approved by the local school board ~~[of education/leaeat]~~ or charter school governing board;

([b]ii) ACT or SAT scores that meet or exceed a level set by the local school board ~~[of education/leaeat]~~ or charter school governing board;

([e]iii) Utah state or LEA secondary end-of-course tests;

([d]iv) [D]demonstrated proficiency in a subject, as assessed by the ~~[local board of education/local charter board]~~LEA; or

([e]v) College Level Examination Program (CLEP) tests[-];

([3]c) [A]approved work experience, as assessed by the ~~[local board of education/local charter board]~~LEA.

([4]d) [D]demonstrated mastery in an experimental program that has received prior approval from the Board ~~[(local board of education/local charter board seeks approval from the Board)]~~];

([5]e) [H]increased credit for courses that are combined into a time frame that ordinarily accommodates a lesser number of classes, as approved by the ~~[local board of education/local charter board]~~LEA;

([6]f) [H]independent study ~~[-a student may be allowed]~~ credit for an independent research project or independent reading relevant to a course of study; or

([7]g) [C]credit for experience gained during travel relevant to a specific course if approved in advance by the LEA. ~~[-Prior approval shall be obtained from and credit awarded by the local board of education/local charter board.]~~

**R277-703-4. Early Graduation Student Education Plan.**

[A.](1) In consultation with the student's parent or guardian and school advisor, ~~[each]~~a student seeking a centennial scholarship shall indicate to the secondary principal~~[.]~~ or charter school director the student's intent to complete early graduation at the beginning of the ninth grade year or as soon thereafter as the intent is known.

[B.](2) To be eligible for early graduation, a student shall have a current [SEOP]plan for college and career readiness on file at the student's high school ~~[under provisions of R277-700-8]as described in Subsection R277-700-6(24).~~

**R277-703-5. Local Education Requirements.**

[A.](1) Requirements relating to semesters in membership are inapplicable to students who have been approved under Section R277-703-4 for graduation following the eleventh grade year.

[B.](2) Local academic and citizenship credit requirements for graduation which exceed Board requirements shall include provisions that permit students to graduate early.

**R277-703-6. Funding Provisions.**

[A.](1) An LEA shall receive a payment designated for each high school from which students graduated before the end of the twelfth grade year.

[B.](2) [Payment provisions:

~~-----~~(1) ~~]An~~ LEA[s] shall receive payment for one-half of the designated [C]centennial [S]scholarship amount for each student

reported as having graduated at the conclusion of the eleventh grade year on the S-3 report in the fiscal year following the student's graduation.

(2)(3)(a) An LEA[s] shall receive payment based on a percentage of the [€]centennial [S]scholarship amount for each student reported as graduating during the twelfth grade year.

(b) ~~[These students]~~ A student described in Subsection (3) (a) shall also be listed on the S-3 report and payment shall be made to the LEA in the fiscal year following the students' graduation.

(c) An LEA[s] shall receive payment for schools operating on the quarter or trimester system for each early graduating student according to the following schedule:

([a]i) [E]nd of first quarter of 12th grade year: 75 percent of one-half of the [€]centennial [S]scholarship amount;

([b]ii) [E]nd of second quarter of 12th grade year: 50 percent of one-half of the [€]centennial [S]scholarship amount;

([e]iii) [E]nd of third quarter of 12th grade year: 25 percent of one-half of the [€]centennial [S]scholarship amount;

([d]iv) [E]nd of first trimester of 12th grade year: 67 percent of one-half of the [€]centennial [S]scholarship amount; or

([e]v) [E]nd of second trimester of 12th grade year: 33 percent of one-half of the [€]centennial [S]scholarship amount.

[€](4) A student who graduates from high school at the conclusion of the eleventh grade year or during the twelfth grade year shall be entitled to a partial tuition scholarship in the form of the [E]arly [G]raduation [€]centennial [S]scholarship [€]certificate to be used at a Utah public college, university, community college, ~~applied technology center~~ technical college, or any other institution in Utah accredited by the Northwest Accreditation Commission that offers post-secondary courses.

(5) The post-secondary institution selected by a student who receives a centennial scholarship shall complete the [E]arly [G]raduation [€]centennial [S]scholarship [€]certificate and submit it to the [Utah State Office of Education] Superintendent.

(6) Upon receipt of the [E]arly [G]raduation [€]centennial [S]scholarship [€]certificate, the [Utah State Office of Education] Superintendent shall verify the information, and reimburse the institution an amount set forth in the following schedule in the fiscal year during which the student enrolls in a post-secondary institution.

(7) Except as provided in Section R277-703-7, [F]to be eligible for the scholarship, the student must enroll in an eligible post-secondary institution within one calendar year of graduation.

([1]8)(a) ~~[The]~~ A student who graduates at the end of the eleventh grade year shall receive a full [€]centennial [S]scholarship.

(2)(b) ~~[The]~~ A student who graduates at the end of the first quarter of the twelfth grade year shall receive 75 percent of the [€]centennial [S]scholarship amount.

(3)(c) ~~[The]~~ A student who graduates at the end of the second quarter of the twelfth grade year shall receive 50 percent of the [€]centennial [S]scholarship amount.

(4)(d) ~~[The]~~ A student who graduates at the end of the third quarter of the twelfth grade year shall receive 25 percent of the [€]centennial [S]scholarship amount.

(5)(e) ~~[The]~~ A student who graduates at the end of the first trimester of the twelfth grade year shall receive 67 percent of the [€]centennial [S]scholarship amount.

([6]f) ~~[The]~~ A student who graduates at the end of the second trimester of the twelfth grade year shall receive 33 percent of the [€]centennial [S]scholarship amount.

#### **R277-703-7. Student Deferrals.**

(1) Except as provided in Subsection (5) and as allowed in Subsection 53A-15-102(4), a student who is eligible for a centennial scholarship, as described in Subsection 53A-15-102(3), and this R277-703, may make a request to the Board that the Board defer consideration of the student for the scholarship for a set period of time up to five years.

(2) The Superintendent shall:

(a) create an application, for the Board's approval, for a student seeking a deferral to request the deferral; and

(b) make the application described in Subsection (2)(a) available online.

(3) A student seeking a deferral described in Subsection (1) shall file a request for deferral with the Superintendent on or before:

(a) the second Monday in February for a student who graduated on or before December 31 of a school year; and

(b) the second Monday in July for a student who graduated on or before June 15 of a school year.

(4)(a) If a student's request for a deferral is denied by the Superintendent, the student may request an appeal of the Superintendent's decision.

(b) The Law and Licensing Committee shall review a student's appeal within 60 days of receipt of the appeal.

(c) The Superintendent shall inform a student requesting appeal of the Law and Licensing Committee's decision.

(5) A student's centennial scholarship expires five years from the date the eligible student graduated.

**KEY: graduation requirements, curricula, scholarships, early graduation**

**Date of Enactment or Last Substantive Amendment: [~~October 9, 2012~~]2017**

**Notice of Continuation: August 14, 2017**

**Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-402(1); 53A-1-401(3)**

## Governor, Economic Development R357-11 Technology Commercialization and Innovation Program (TCIP)

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42029

FILED: 08/15/2017

### RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The reason for the change is to remove a restriction for applicants that limited applications for the same

technology for a maximum of three applications. The change will allow for more robust and competitive pool of applicants. It will also allow for stages of the same technology to all be open to possible funding under this grant program.

**SUMMARY OF THE RULE OR CHANGE:** This change removes the restriction that applicant can only apply for a TCIP grant a maximum of three times for the same technology. However, the removal only allows for more than three applications for the same technology if the same technology has not been already been rejected in three previous solicitations. If it has been rejected in three previous solicitation rounds, the maximum of three applications for the same technology rule still applies.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 63N-3-204(2)(b)

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** There is no impact on the state budget because this rule change only impacts the potential grant recipients and only uses the amount of funds appropriated by the legislature. There is no additional administrative costs associated with this rule change.
- ◆ **LOCAL GOVERNMENTS:** There is no impact to local government because they cannot participate in the program.
- ◆ **SMALL BUSINESSES:** There is no impact to small businesses because this amendment does not create and new regulations or new requirements that would cost a small business any additional expense if they chose to apply for a grant.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There are no other persons affected by this rule change because only small business can apply for this grant.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There is no compliance cost for affected persons because this change removes a restriction and does not create any new requirement for applying to receive a grant.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This rule change has no fiscal impact on business because it removes a restriction and does not create any new requirement for applying to receive a grant.

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

GOVERNOR  
ECONOMIC DEVELOPMENT  
60 E SOUTH TEMPLE, THIRD FLOOR  
SALT LAKE CITY, UT 84111  
or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**

- ◆ Jeffrey Van Hulten by phone at 801-538-8694, by FAX at 801-538-8888, or by Internet E-mail at jeffreyvan@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/02/2017

THIS RULE MAY BECOME EFFECTIVE ON: 10/09/2017

AUTHORIZED BY: Val Hale, Executive Director

**R357. Governor, Economic Development.**

**R357-11. Technology Commercialization and Innovation Program (TCIP).**

**R357-11-1. Purpose.**

(1) The purpose of the Technology Commercialization and Innovation Act is to catalyze and enhance growth of technologies by encouraging interdisciplinary research activity and targeted areas, facilitating the transition of technologies out of the higher education to enhance job creation, and to support the commercialization of technologies developed by small businesses to enhance job creation.

**R357-11-2. Authority.**

(1) UCA 63N-3-204(2)(b) requires the office to make rules to regulate the Technology Commercialization Innovation Program ("TCIP") grant structure and awards and to recapture awards when a recipient fails to maintain a presence in Utah for at least five years after the award is made, as set forth in these rules.

**R357-11-3. Definitions.**

(1) This rule adopts the definitions set forth in 63N-3-203.

(2) "Board" means the Board of Business Development set forth in 63N-1-301.

(3) "Derivative Technology" means: Incremental advance or new of application of an existing technology.

(4) "Developmental Research Phase" means: A phase in which the technology is not beyond a basic concept as determined by the office.

(5) "New technology means" Intellectual property not previously marketed or generated revenue for any entity.

(6) Qualified Pre-screening entity "means" A University's Technology Transfer Office or the USTAR Technology Outreach Innovation Program. This term only applies to University team applicants.

(7) "Service location" means a location where a grant recipient is developing and/or commercializing the new technology in a way that provides economic impact to the state; including but not limited to: job creation, new state revenue, and new local revenue.

(8) Solicitation Cycle Means: A granting cycle from application to grant distribution to be held at least once a year or more depending on availability of funds. All dates for any solicitation may be found on the TCIP website.

(9) "TCIP" means the Technology Commercialization and Innovation Program as defined in Utah Code Section 63N-3-203(6).

**R357-11-4. General Grant Requirements.**

(1) An applicant can only receive a TCIP award totaling an amount defined in policy per new technology. Policy shall be available on the TCIP website.

(2) An applicant may not submit more than one application in the same solicitation cycle if the applicant has more than one new technology that meets the eligibility requirement for a TCIP grant.

(a) Only one new technology project per applicant will be funded in a [n] solicitation cycle.

(3) An applicant that has generated more than \$500,000 in revenue from the proposed new or derivative technology is not eligible for a TCIP grant.

(4) An applicant that has raised more than \$3,000,000 at the time of application in total prior funding, including equity and debt based financing, is not eligible for the TCIP grant.

(5) ~~[An Applicant may apply for a TCIP grant up to three times for a specific new technology. If, after the third application TCIP does not fund the technology, TCIP will reject subsequent applicants for the same new technology without further review.]~~ An applicant may apply for a TCIP grant up to three times. If an applicant has not been awarded a grant for that specific technology within three different solicitations, TCIP will reject subsequent applications without review. If an applicant who has previously received TCIP funding within the past three years wishes to apply for additional funding they can, however once that same technology has been reviewed and rejected three times without being funded it may no longer be considered for review. Executive Director of GOED or the director's designee has the right to review and accept or reject a technology that has been submitted over three times to ensure it meets these criteria.

**R357-11-5. Matching Funds.**

(1) Matching funds may be considered in granting an award if the Office provides notice of such a requirement in the application. If considered a grant recipient must show proof of the matching funds.

(2) Matching funds may be raised and spent at any time prior to submitting an invoice to the TCIP

(a) Grant recipient must submit bank statements (for Licensees) or financial statements (for Universities) demonstrating that the matching funds were available during the match period.

(b) If matching funds have been required by the Office to be a condition precedent to a grant award, [M]atching funds do not have to be in place at the time of the application, but must be in place before TCIP funds are disbursed within the contract period of one year.

**R357-11-6. Applicant Specific Requirements.**

(1) University Teams: In order to apply for a grant or loan under the TCIP program, a University Team must satisfy the following initial criteria:

(a) The technology must be organized by faculty led university team;

(b) The technology must have completed the developmental research phase; and

(c) The applicant must be pre-screened by a qualified pre-screening entity.

(d) The qualified pre-screening entity must certify that the technology meets the criteria set forth in (a) and (b) of this section, and the certification must be provided before grant is awarded.

(2) Small Businesses: In order to apply for a grant or loan under the TCIP program, a small business must satisfy the following initial criteria:

(a) The applicant must be a "small business" as defined by the Federal Small Business Administration's definition and meet the criteria set forth in UCA Section 63N-3-203(5).

(3) A University-licensee is also be eligible if it meets the definitions in (a) above.

**R357-11-7. Review of Applications and Awards.**

(1) Applicants who successfully meet the eligibility requirements set forth in R357-11-4 and R357-11-5 and R357-11-6 may submit their application for the TCIP grant through the online registration portal.

(2) The Executive Director of GOED or the director's designee will evaluate the applications received in each solicitation cycle. The Executive Director or the designee may use the following criteria, as defined by the Executive Director or the designee, to evaluate applications for TCIP grants:

(a) Quality, diversity, and number of jobs created in Utah,  
(b) Quality of Management and Leadership, including experience with commercialization of new technologies as demonstrated by grant applicant's application and proposal;

(c) Strength of the new technology and potential for commercialization;

(d) Size and Growth of the market of the proposed technology

(e) Applicant's ability to market the technology and the credibility of their "go-to-market" strategy.

(f) Availability of matching funds and the source and relevance of those funds as set forth in R357-11-5

(g) Whether the project combines or coordinates related research at two or more institutions of higher education;

(h) Any other criteria deemed necessary or valuable to the selection process.

(3) Additionally, each applicant's application will be compared against and with the strength of all other applicants' applications and proposals within the same solicitation cycle.

(4) The Executive Director may assemble an outside review team to review the criteria set forth above and to make recommendations regarding the application.

(5) The Executive Director or his designee shall propose funding allocations to the Board.

(6) After the Board provides its advice, the Executive Director or the designee shall determine which applications should be prioritized for funding.

(7) Applications will be prioritized and funded based on the criteria set forth in (1)-(3). Award letters will be provided setting forth the terms of the grant offer.

**R357-11-8. Requirements for Grant Recipients.**

(1) Contract

(a) An applicant who is awarded a TCIP grant must sign a contract with the State of Utah prior to receiving any funds

(2) Subcontinent

(a) Grant Recipients are prohibited from subcontracting with another entity to administer the new technology funded by the Grant.

(3) Time in State

(a) Grant recipients will be expected to retain their company, and supported technology, and exploit the technology in the State of Utah for a minimum period of five years from the date of their agreement with the State.

(b) Any applicant who fails to maintain a manufacturing or service location in the state or who fails to exploit the new technology from a location in the state will be subject to recapture of the grant funding, subject to the provisions of Utah Code Section 63N-3-204(2)(d) and R357-11-8.

(4) Authorization to disclose tax information

(a) Licensee grant recipients will be required to sign an authorization to disclose tax records for up to five years from the date of their agreement with the State.

(5) Mentoring Program

(a) Grant awardees may be required to participate in the TCIP Mentoring Program in order to secure funding.

(b) If a grant award is contingent on participation in the TCIP Mentoring Program, an awardee will be required to show active participation in the program prior to receiving any or part of the grant funding as outlined in recipient's contract.

**R357-11-9. Funding.**

(1) TCIP funding is for developing existing research to the point of commercialization, bridging the "funding gap" between research dollars and manufacturing dollars.

(2) TCIP funding may be used to:

(a) Purchase equipment;

(b) Purchase supplies;

(c) Fund graduate/undergraduate students for time directly applicable to center commercialization activities related to the new technology;

(d) Fund faculty salaries directly applicable to center commercialization and related to the new technology;

(e) Fund technology transfer activities (trade shows, brochures, etc.);

(f) Fund market analysis;

(g) Pay for consulting fees directly applicable to center commercialization;

(h) Pay for business manager or marketing manager salaries directly applicable to center commercialization activities; or

(i) Other purposes approved by GOED in writing.

(3) Carryover Funds

(a) The budget described in the contract is designated for the particular fiscal year and is an integral part of the contract. Upon the expiration of the contract, residual funds under the contract can only be accessed by amending the contract as described above.

(4) Invoicing Requirement

(a) To receive funds from the program, an invoice should be submitted by the awardee[~~to the program manager~~] upon completion of

~~(i)-~~ the [required-]milestones [contained within the grant award contract];

~~(ii) an approved mentorship] or the mentor program with [completion verified by the office, or] verification from the TCIP manager.~~

~~[(iii) any other requirements contained within the grant award contract.~~

~~(b) Every invoice must include:~~

(i) Contract Number;

(ii) Name of entity and Principal Investigator.;

(iii) Billing Period; and

(iv) Current and Cumulative Amounts.

**R357-11-10. Reporting Requirements.**

(1) Reporting and Monitoring

(a) Grant awardees or mentor will be required to submit a report of activities, achievements and expenses, etc. as specified in the awardees contract.

(b) Grant awardees or mentor will be required to comply with the State's request for information pertaining to the economic impact to the State, at least annually for up to five years from date of the agreement.

(c) Grant awardees or mentor will also be required to respond to additional periodic reporting to the TCIP Director, Governor's Office of Economic Development and GOED Board, and the Legislature, at any time during the agreement period and thereafter for two additional years.

(d) Universities and Small Businesses should also expect periodic site visits from TCIP Director or board members. Such visits will be scheduled at mutually convenient times.

**R357-11-11. Recapture.**

(1) In order to receive grant funding under these provisions, an applicant must commit to maintain a manufacturing location or service location in the State of Utah for at least five years from the date that the grant award letter is issued.

(2) Maintaining a manufacturing and service location means that the applicant will perform at least 51% percent of the grant activities listed above in the State of Utah, will exploit the technology into a commercial project in Utah and will maintain working operations in the State for at least five years from the date the grant award letter is issued.

(3) If the applicant fails to maintain a manufacturing a service location in Utah for at least five years from the date the grant award letter is issued, the entire grant amount may be subject to recapture.

(4) A repayment by an applicant shall be prorated based on the number of full years the applicant operated in the state from the date of the awarded grant.

(5) Should an applicant fail to comply with the requirements to maintain a manufacturing and service location in Utah for the purpose of exploiting the new technology that is the subject of the grant, the Office will issue a Notice of Agency Action for Recapture.

(6) The Notice of Agency Action shall contain the grounds for recapture, and the prorated amount of the recapture, if any.

**KEY: technology, innovations, commercialization, small businesses**

**Date of Enactment or Last Substantive Amendment:** [ ~~March 23, 2015~~ 2017  
**Authorizing, and Implemented or Interpreted Law:** 63N-3-204(2)

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

**NOTICE OF PROPOSED RULE  
 (Amendment)  
 DAR FILE NO.: 42019  
 FILED: 08/14/2017**

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The child care community, the Child Care Center Licensing Committee, and the Child Care Licensing Program supported the need for a revision of this rule. This rule was written in a very complex format and had many parts that were no longer applicable. Additionally, there were different sets of rules that applied to this provider type and also needed to be rewritten and combined in one single set of rules for clarity and to make it simpler to understand and follow.

**SUMMARY OF THE RULE OR CHANGE:** This rule was rewritten using simpler language and all rules that were not applicable were deleted. The rule sections were reorganized and renamed, and Rule R430-6 (the background screening rule) and Rule R430-1 (the administrative rule) were also rewritten and combined with this rule to have all requirements in one place.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 63G, Chapter 3

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** Some state agencies operate child care centers. However, the Child Care Licensing Committee does not anticipate any cost or savings as a result of this change.
- ◆ **LOCAL GOVERNMENTS:** Some local governments operate child care centers. Since the proposed changes do not add any requirements, the Child Care Licensing Committee does not anticipate any costs or savings to child care programs operated by state agencies.
- ◆ **SMALL BUSINESSES:** Almost all child care centers are small businesses. Since the proposed changes do not add any requirements, the Child Care Licensing Committee does not anticipate any costs or savings to child care programs operated by small business.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Since the proposed changes do not add any requirements, the Child Care Licensing Committee does not anticipate any 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 Child Care Licensing Committee do not anticipate any compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is not financial impact for any of the parties affected by these proposed rule changes because these rules were only rewritten and reorganized in simpler language and no additional requirements were included.

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

HEALTH  
 CHILD CARE CENTER LICENSING COMMITTEE  
 3760 S HIGHLAND DR  
 SALT LAKE CITY, UT 84106  
 or at the Office 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 10/02/2017**

**THIS RULE MAY BECOME EFFECTIVE ON: 10/10/2017**

**AUTHORIZED BY: Joseph Miner, MD, 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) "Director" means a person who meets the director qualifications of this rule, and who assumes the day-to-day responsibilities for the facility to be in compliance with Child Care Licensing rules.~~

~~(9) "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.~~

~~(10) "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.~~

~~(11) "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.~~

~~(12) "Health Care Provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.~~

~~(13) "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 cannot get to.~~

~~(14) "Infant" means a child aged birth through 11 months of age.~~

~~(15) "Infectious Disease" means an illness that is capable of being spread from one person to another.~~

~~(16) "Licensee" means the legally responsible person or persons holding a valid Department of Health child care license.~~

~~(17) "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.~~

~~(18) "Parent" means the parent or legal guardian of a child in care.~~

~~(19) "Person" means an individual or a business entity.~~

~~(20) "Physical Abuse" means causing non-accidental physical harm to a child.~~

~~(21) "Preschooler" means a child aged 2 through 4, and 5-year-olds who have not yet started kindergarten.~~

~~(22) "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).~~

~~(23) "Provider" means the licensee or the entity providing child care services.~~

~~(24) "Sanitize" means to remove soil and small amounts of certain bacteria from a surface or object with a chemical agent.~~

~~(25) "School Age" means children ages five through twelve.~~

~~(26) "Sexual Abuse" means abuse as defined in Utah Code, Section 76-5-404.1.(2).~~

~~(27) "Sexually Explicit Material" means any depiction of sexually explicit conduct, as defined in Utah Code, Section 76-5b-103(10).~~

~~(28) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, or play pen.~~

~~(29) "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.~~

~~(30) "Toddler" means a child aged 12 months but less than 24 months.~~

~~(31) "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.~~

~~(32) "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 whenever there are children in the outdoor play area.

(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, who has completed the Center Director Training class offered by the Department, 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) as approved by the Department, 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, or their equivalent, as approved by the Utah Child Care Professional Development Institute: 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) Any new Center director must complete the Department's Center Director Training Class no later than 60 working days after assuming director duties.~~

~~\_\_\_\_\_ (3) All caregivers included in the required caregiver to child ratios shall be at least 18 years of age.~~

~~\_\_\_\_\_ (4) A volunteer may be included in the provider to child ratio only if the volunteer meets all of the caregiver requirements of this rule.~~

~~\_\_\_\_\_ (5) Each new caregiver, and volunteers who count in the caregiver to child ratio shall receive at least 2.5 hours of pre-service 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 Department-approved center's written policies and procedures;~~

~~\_\_\_\_\_ (c) the Department-approved center's emergency and disaster plan;~~

~~\_\_\_\_\_ (d) the current child care licensing rules found in Sections R381-60-11 through 24;~~

~~\_\_\_\_\_ (e) 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;~~

~~\_\_\_\_\_ (f) recognizing the signs of homelessness and available assistance;~~

~~\_\_\_\_\_ (g) prevention of shaken baby syndrome and abusive head trauma, and coping with crying babies; and~~

~~\_\_\_\_\_ (h) prevention of sudden infant death syndrome and use of safe sleeping practices.~~

~~\_\_\_\_\_ (6) 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 caregiver to child ratio.~~

~~\_\_\_\_\_ (7) 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.~~

~~\_\_\_\_\_ (8) 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.~~

~~\_\_\_\_\_ (9) 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 Department-approved 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;~~

~~\_\_\_\_\_ (e) positive guidance;~~

~~\_\_\_\_\_ (f) prevention of shaken baby syndrome and abusive head trauma, and coping with crying babies;~~

~~\_\_\_\_\_ (g) prevention of sudden infant death syndrome and use of safe sleeping practices; and~~

~~\_\_\_\_\_ (h) recognizing the signs of homelessness and available assistance;~~

~~\_\_\_\_\_ (11) 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 pre-service 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 licensee shall establish, and shall ensure that all caregivers follow, written policies and procedures for the health and safety of each child in care. The licensee shall submit to the Department these policies and procedures for approval on a form provided by Child Care Licensing.

\_\_\_\_\_ (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) copy of all covered individuals' background screening cards issued by the Department.

\_\_\_\_\_ (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) copy of the current background screening card issued by the Department;

\_\_\_\_\_ (c) a six week record of days worked, and the times worked each day;

\_\_\_\_\_ (d) pre-service training documentation for caregivers, and for volunteers who count in the caregiver to child ratio;

\_\_\_\_\_ (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 licensee shall submit to the Department a written emergency preparedness and disaster response plan for approval on a form provided by Child Care Licensing.

\_\_\_\_\_ (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, e-cigarettes, e-juice, e-liquids, 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 sent 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;~~

~~\_\_\_\_\_ (d) not have strings, cords, ropes, or other entanglement hazards strung across the crib rails; and~~

~~\_\_\_\_\_ (e) meet CPSC crib standards.~~

~~\_\_\_\_\_ (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.]~~

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

(1) This rule is enacted and enforced in accordance with Utah Code, Title 26, Chapter 39.

(2) This rule establishes the foundational standards necessary to protect the health and safety of children in hourly child care centers and defines the general procedures and requirements to obtain and maintain a license to provide child care.

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

(1) "Applicant" means a person or business who has applied for a new or a renewal of a license, certificate, or exemption from Child Care Licensing.

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

(3) "Background Finding" means information in a background screening that may result in a denial from Child Care Licensing.

(4) "Background Screening Denial" means that an individual has failed the background screening and is prohibited from being involved with a child care program.

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

(6) "Body Fluid" means blood, urine, feces, vomit, mucus, and/or saliva.

(7) "Capacity" means the maximum number of children for whom care can be provided at any given time.

(8) "Caregiver-to-Child Ratio" means the number of caregivers responsible for a specific number of children.

(9) "CCL" means the Child Care Licensing Program in the Department of Health that is delegated with the responsibility to enforce the Utah Child Care Licensing Act.

(10) "Child Care" means continuous care and supervision of 5 or more qualifying children that is:

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

(b) for less than 24 hours a day, and

(c) for direct or indirect compensation.

(11) "Child Care Center Licensing Committee" means the Child Care Center Licensing Committee created in the Utah Child Care Licensing Act.

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

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

(14) "Conditional Status" means that the provider is at risk of losing their license because compliance with licensing rules has not been maintained.

(15) "Covered Individual" means any of the following individuals involved with a child care program:

(a) an owner;

(b) a director;

\_\_\_\_\_ (c) a member of the governing body;  
\_\_\_\_\_ (d) an employee;  
\_\_\_\_\_ (e) a caregiver;  
\_\_\_\_\_ (f) a volunteer, except a parent of a child enrolled in the child care program;  
\_\_\_\_\_ (g) an individual age 12 years or older who resides in the facility; and  
\_\_\_\_\_ (h) anyone who has unsupervised contact with a child in care.

\_\_\_\_\_ (16) "CPSC" means the Consumer Product Safety Commission.

\_\_\_\_\_ (17) "Department" means the Utah Department of Health.

\_\_\_\_\_ (18) "Designated Play Surface" means any accessible elevated surface for standing, walking, crawling, sitting or climbing; or an accessible flat surface at least 2 by 2 inches in size and having an angle less than 30 degrees from horizontal.

\_\_\_\_\_ (19) "Director" means a person who meets the director qualifications in this rule, and who assumes the day-to-day responsibilities for compliance with Child Care Licensing rules.

\_\_\_\_\_ (20) "Emotional Abuse" means behavior that could harm a child's emotional development, such as threatening, intimidating, humiliating, demeaning, criticizing, rejecting, using profane language, and/or using inappropriate physical restraint.

\_\_\_\_\_ (21) "Entrapment Hazard" means an opening greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing a child's entrapment and strangulation.

\_\_\_\_\_ (22) "Facility" means a child care program or the premises approved by the Department to be used for child care.

\_\_\_\_\_ (23) "Group" means the children who are supervised by one or more caregivers in an individual room or in an area within a room that is defined by furniture or other partition.

\_\_\_\_\_ (24) "Group Size" means the number of children in a group.

\_\_\_\_\_ (25) "Guest" means an individual who is not a covered individual and is at the child care facility with the provider's permission.

\_\_\_\_\_ (26) "Health Care Provider" means a licensed health professional, such as a physician, dentist, nurse practitioner, or physician's assistant.

\_\_\_\_\_ (27) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence as described in the McKinney-Vento Act, McKinney-Vento Homeless Assistance Act (Title IX, Part A of ESSA)

\_\_\_\_\_ (28) "Inaccessible" means out of reach of children by being:

\_\_\_\_\_ (a) locked, such as in a locked room, cupboard, or drawer;  
\_\_\_\_\_ (b) secured with a child safety device, such as a child safety cupboard lock or doorknob device;

\_\_\_\_\_ (c) behind a properly secured child safety gate;  
\_\_\_\_\_ (d) located in a cupboard or on a shelf that is at least 36 inches above the floor; or

\_\_\_\_\_ (e) in a bathroom, at least 36 inches above any surface from where a child could stand or climb.

\_\_\_\_\_ (29) "Infant" means a child who is younger than 12 months of age.

\_\_\_\_\_ (30) "Infectious Disease" means an illness that is capable of being spread from one person to another.

\_\_\_\_\_ (31) "Involved with Child Care" means to do any of the following at or for a child care program licensed by the Department:

\_\_\_\_\_ (a) provide child care;

\_\_\_\_\_ (b) volunteer at a child care program;

\_\_\_\_\_ (c) own, operate, direct, or be employed at a child care program;

\_\_\_\_\_ (d) reside at a facility where child care is provided; or

\_\_\_\_\_ (e) be present at a facility while care is being provided, except for authorized guests or parents who are dropping off a child, picking up a child, or attending a scheduled event at the child care facility.

\_\_\_\_\_ (32) "License" means a license issued by the Department to provide child care services.

\_\_\_\_\_ (33) "Licensee" means the legally responsible person or business that holds a valid license from Child Care Licensing.

\_\_\_\_\_ (34) "LIS Supported Finding" means background screening information from the Licensing Information System (LIS) database for child abuse and neglect, maintained by the Utah Department of Human Services.

\_\_\_\_\_ (35) "McKinney-Vento Act" means a federal law that requires protections and services for children and youth who are homeless including those with disabilities, McKinney-Vento Homeless Assistance Act (Title IX, Part A of ESSA)

\_\_\_\_\_ (36) "Over-the-Counter Medication" means medication that can be purchased without a written prescription including herbal remedies, vitamins, and mineral supplements.

\_\_\_\_\_ (37) "Parent" means the parent or legal guardian of a child in care.

\_\_\_\_\_ (38) "Person" means an individual or a business entity.

\_\_\_\_\_ (39) "Physical Abuse" means causing nonaccidental physical harm to a child.

\_\_\_\_\_ (40) "Play Equipment Platform" means a flat surface on a piece of stationary play equipment intended for more than one child to stand on, and upon which the children can move freely.

\_\_\_\_\_ (41) "Preschooler" means a child age 2 through 4 years old.

\_\_\_\_\_ (42) "Protective Barrier" means a structure such as bars, lattice, or a panel that is around an elevated platform and is intended to prevent accidental or deliberate movement through or access to something.

\_\_\_\_\_ (43) "Protective Cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of injuries from falls.

\_\_\_\_\_ (44) "Provider" means the legally responsible person or business that holds a valid license from Child Care Licensing.

\_\_\_\_\_ (45) "Qualifying Child" means:

\_\_\_\_\_ (a) a child who is younger than 13 years old and is the child of a person other than the child care provider or caregiver,

\_\_\_\_\_ (b) a child with a disability who is younger than 18 years old and is the child of a person other than the provider or caregiver, or

\_\_\_\_\_ (c) a child who is younger than 4 years old and is the child of the provider or a caregiver.

\_\_\_\_\_ (46) "Related Child" means a child for whom a provider is the parent, legal guardian, step-parent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.

\_\_\_\_\_ (47) "Sanitize" means to use a chemical product to remove soil and bacteria from a surface or object.

\_\_\_\_\_ (48) "School-Age Child" means a child age 5 through 12 years old.

\_\_\_\_\_ (49) "Sexual Abuse" means abuse as defined in Utah Code, Title 76-5-404(1).



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

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

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

(a) a sandbox;

(b) a stationary circular tricycle;

(c) a sensory table; or

(d) a playhouse that sits on the ground or floor and has no attached equipment, such as a slide, swing, or climber.

(53) "Strangulation Hazard" means something on which a child's clothes or drawstrings could become caught, or something in which a child could become entangled such as:

(a) a protruding bolt end that extends more than 2 threads beyond the face of the nut;

(b) hardware that forms a hook or leaves a gap or space between components such as a protruding S-hook; or

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

(54) "Substitute" means a person who assumes a caregiver's duties when the caregiver is not present.

(55) "Toddler" means a child aged 12 through 23 months.

(56) "Unrelated Child" means a child who is not a "related child" as defined in R381-60-2(46).

(57) "Unsupervised Contact" means being with, caring for, communicating with, or touching a child in the absence of a caregiver or other employee who is at least 18 years old and has passed a Child Care Licensing background screening.

(58) "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.

(59) "Volunteer" means an individual who receives no form of direct or indirect compensation for their service.

(60) "Working Days" means the days of the week the Department is open for business.

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

(1) A person or persons shall be licensed as an hourly child care center if they provide care:

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

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

(c) for 5 or more children;

(d) for 4 or more hours per day, and no child is cared for on a regular schedule;

(e) for each individual child for less than 24 hours per day.

(f) on an ongoing basis for 4 or more weeks in a year, and

(g) for direct or indirect compensation.

(2) The Department may not license, nor is a license required for:

(a) a person who cares for related children only, or

(b) a person who provides care on a sporadic basis only.

(3) According to Foster Care Services rule R501-12-4(8)(f), a provider may not be licensed to provide child care in a facility that is also licensed to offer foster or respite care services, or another licensed or certified human services program.

### **R381-60-4. License Application, Renewal, Changes, and Variances.**

(1) An applicant for a new child care license shall submit to the Department:

(a) an online application;

(b) a copy of a current local fire clearance or a statement from the local fire authority that a fire inspection is not required;

(c) a copy of a current local health department kitchen clearance for a facility providing food service or a statement from the local health department that a kitchen inspection is not required;

(d) a copy of a current local business license or a statement from the city that a business license is not required;

(e) a copy of the educational credentials of the person who will be the director as required in R381-60-7(4);

(f) a copy of a completed Department health and safety plan form;

(g) CCL background screenings for all covered individuals as required in R381-60-8;

(h) a current copy of the Department's new provider training certificate of attendance; and

(i) all required fees, which are nonrefundable.

(2) The applicant shall pass a Department's inspection of the facility before a new license or a renewal is issued.

(3) If the local fire authority states that a fire inspection is not required, a Department's CCL inspection for a new license or a renewal of a license shall include compliance with the following:

(a) address numbers and/or letters shall be readable from the street;

(b) address numbers and/or letters shall be at least 4 inches in height and 1/2 inch thick;

(c) exit doors shall operate properly and shall be well maintained;

(d) obstructions in exits, aisles, corridors, and stairways shall be removed;

(e) items stored under exit stairs shall be removed;

(f) exit doors shall be unlocked from the inside during business hours;

(g) exits shall be clearly identified;

(h) there shall be unobstructed fire extinguishers that are of an X minimum rate and appropriate to the type of hazard, currently charged and serviced, and mounted not more than 5 feet above the floor;

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

(j) boiler, mechanical, and electrical panel rooms shall not be used for storage.

(4) If the provider serves food and the local health department states that a kitchen inspection is not required, a Department's CCL inspection for a new license or a renewal of a license shall include compliance with the following:

(a) the refrigerator shall be clean, in good repair, and working at or below 41 degrees Fahrenheit;

(b) there shall be a working thermometer in the refrigerator;

\_\_\_\_\_ (c) there shall be a working stem thermometer available to check cook and hot hold temperatures;

\_\_\_\_\_ (d) cooks shall have a current food handler's permit available on-site for review by the Department;

\_\_\_\_\_ (e) cooks shall use hair restraints and wear clean outer clothing;

\_\_\_\_\_ (f) according to Food Code 2-103-11, only necessary staff shall be present in the kitchen;

\_\_\_\_\_ (g) reusable food holders, utensils, and food preparation surfaces shall be washed, rinsed, and sanitized with an approved sanitizer before each use;

\_\_\_\_\_ (h) chemicals shall be stored away from food and food service items;

\_\_\_\_\_ (i) food shall be properly stored, kept to the proper temperature, and in good condition; and

\_\_\_\_\_ (j) there shall be a working handwashing sink in the kitchen and handwashing instructions posted by the sink.

\_\_\_\_\_ (5) If the applicant does not complete the application process within 6 months of first submitting any portion of the application, the Department may deny the application and to be licensed, the applicant shall reapply. This includes resubmitting all required documentation, repaying licensing fees, and passing another inspection of the facility.

\_\_\_\_\_ (6) The Department may deny an application for a license if, within the 5 years preceding the application date, the applicant held a license or a certificate that was:

\_\_\_\_\_ (a) closed under an immediate closure;

\_\_\_\_\_ (b) revoked;

\_\_\_\_\_ (c) closed as a result of a settlement agreement resulting from a notice of intent to revoke, a notice of revocation, or a notice of immediate closure;

\_\_\_\_\_ (d) voluntarily closed after an inspection of the facility found rule violations that would have resulted in a notice of intent to revoke or a notice of revocation had the provider not closed voluntarily; or

\_\_\_\_\_ (e) voluntarily closed having unpaid fees or civil money penalties issued by the Department.

\_\_\_\_\_ (7) Each child care license expires at midnight on the last day of the month shown on the license, unless the license was previously revoked by the Department, or voluntarily closed by the provider.

\_\_\_\_\_ (8) Within 30 to 90 days before a current license expires, the provider shall submit for renewal:

\_\_\_\_\_ (a) an online renewal request,

\_\_\_\_\_ (b) applicable renewal fees,

\_\_\_\_\_ (c) any previous unpaid fees,

\_\_\_\_\_ (d) a copy of a current business license,

\_\_\_\_\_ (e) a copy of a current fire inspection report, and

\_\_\_\_\_ (f) a copy of a current kitchen inspection report.

\_\_\_\_\_ (9) A provider who fails to renew their license by the expiration date may have an additional 30 days to complete the renewal process if they pay a late fee.

\_\_\_\_\_ (10) The Department may not renew a license for a provider who is no longer caring for children.

\_\_\_\_\_ (11) The provider shall submit a complete application for a new license at least 30 days before any of the following changes occur:

\_\_\_\_\_ (a) a change of the child care facility's location, or

\_\_\_\_\_ (b) a change that transfers 50 percent or more ownership or controlling interest to a new individual or entity.

\_\_\_\_\_ (12) The provider shall submit a complete application to amend an existing license at least 30 days before any of the following changes:

\_\_\_\_\_ (a) an increase or decrease of licensed capacity, including any change to the amount of usable indoor or outdoor space where child care is provided;

\_\_\_\_\_ (b) a change in the name of the program;

\_\_\_\_\_ (c) a change in the regulation category of the program;

\_\_\_\_\_ (d) a change in the name of the provider;

\_\_\_\_\_ (e) an addition or loss of a director; or

\_\_\_\_\_ (f) a change in ownership that does not require a new license.

\_\_\_\_\_ (13) The Department may amend a license after verifying that the applicant is in compliance with all applicable rules and required fees have been paid. The expiration date of the amended license remains the same as the previous license.

\_\_\_\_\_ (14) A license is not assignable or transferable and shall only be amended by the Department.

\_\_\_\_\_ (15) If an applicant or provider cannot comply with a rule, but can meet the intent of the rule in another way, they may apply for a variance to that rule by submitting a request to the Department.

\_\_\_\_\_ (16) The Department may:

\_\_\_\_\_ (a) require additional information before acting on the variance request, and

\_\_\_\_\_ (b) impose health and safety requirements as a condition of granting a variance.

\_\_\_\_\_ (17) The provider shall comply with the existing rule until a variance is approved.

\_\_\_\_\_ (18) If a variance is approved, the provider shall keep a copy of the written approval on-site for review by parents and the Department.

\_\_\_\_\_ (19) The Department may grant variances for up to 12 months.

\_\_\_\_\_ (20) The Department may revoke a variance if:

\_\_\_\_\_ (a) the provider is not meeting the intent of the rule as stated in their approved variance;

\_\_\_\_\_ (b) the provider fails to comply with the conditions of the variance; or

\_\_\_\_\_ (c) a change in statute, rule, or case law affects the basis for the variance.

#### **R381-60-5. Rule Violations and Penalties.**

\_\_\_\_\_ (1) The Department may place a program's child care license on a conditional status for the following causes:

\_\_\_\_\_ (a) chronic, ongoing noncompliance with rules;

\_\_\_\_\_ (b) unpaid fees; or

\_\_\_\_\_ (c) a serious rule violation that places children's health or safety in immediate jeopardy.

\_\_\_\_\_ (2) The Department shall establish the length of the conditional status and set the conditions that the child care provider shall satisfy to remove the conditional status.

\_\_\_\_\_ (3) The Department may increase monitoring of the program that is on conditional status to verify compliance with rules.

\_\_\_\_\_ (4) The Department may deny or revoke a license if the child care provider:

\_\_\_\_\_ (a) fails to meet the conditions of a license on conditional status;

\_\_\_\_\_ (b) violates the Child Care Licensing Act;

\_\_\_\_\_ (c) provides false or misleading information to the Department;

\_\_\_\_\_ (d) misrepresents information by intentionally altering a license or any other document issued by the Department;

\_\_\_\_\_ (e) refuses to allow authorized representatives of the Department access to the facility to ensure compliance with rules;

\_\_\_\_\_ (f) refuses to submit or make available to the Department any written documentation required to verify compliance with rules;

\_\_\_\_\_ (g) commits a serious rule violation that results in death or serious harm to a child, or that places a child at risk of death or serious harm; or

\_\_\_\_\_ (h) has committed an illegal act that would exclude a person from having a license.

\_\_\_\_\_ (5) Within 10 working days of receipt of a revocation notice, the provider shall submit to the Department the names and mailing addresses of the parents of each enrolled child so the Department can notify the parents of the revocation.

\_\_\_\_\_ (6) The Department may order the immediate closure of a facility if conditions create a clear and present danger to any child in care and may require immediate action to protect their health or safety.

\_\_\_\_\_ (7) Upon receipt of an immediate closure notice, the provider shall give the Department the names and mailing addresses of the parents of each enrolled child so the Department can notify the parents of the immediate closure.

\_\_\_\_\_ (8) If there is a severe injury or the death of a child in care, the Department may order the child care provider to suspend services and/or prohibit new enrollments, pending a review by the Child Fatality Review Committee or a determination of the probable cause of death or injury by a medical professional.

\_\_\_\_\_ (9) If a person is providing care for more than 4 unrelated children without the appropriate license, the Department may:

\_\_\_\_\_ (a) issue a cease and desist order, or

\_\_\_\_\_ (b) allow the person to continue operation if:

\_\_\_\_\_ (i) the person was unaware of the need for a license,

\_\_\_\_\_ (ii) conditions do not create a clear and present danger to the children in care, and

\_\_\_\_\_ (iii) the person agrees to apply for the appropriate license within 30 calendar days of notification by the Department.

\_\_\_\_\_ (10) If a person providing care without the appropriate license agrees to apply for a license but does not submit an application and all required application documents within 30 days, the Department may issue a cease and desist order.

\_\_\_\_\_ (11) A violation of any rule is punishable by an administrative civil money penalty of up to \$5,000 per day as provided in Utah Code, Section 26-39-601.

\_\_\_\_\_ (12) Assessment of any civil money penalty does not prevent the Department from also taking action to deny, place on conditional status, revoke, immediately close, or refuse to renew a license.

\_\_\_\_\_ (13) Assessment of any administrative civil money penalty under this section does not prevent court-ordered or other equitable remedies.

\_\_\_\_\_ (14) The Department may deny an application or revoke a license for failure to pay any required fees, including fees for applications, late fees, returned checks, license changes, additional inspections, conditional monitoring inspections, background

screenings, civil money penalties, and other fees assessed by the Department.

\_\_\_\_\_ (15) An applicant or provider may appeal any Department decision within 30 days of being informed of the decision.

#### **R381-60-6. Administration and Children's Records.**

\_\_\_\_\_ (1) The provider shall:

\_\_\_\_\_ (a) be at least 21 years of age,

\_\_\_\_\_ (b) pass a CCL background screening, and

\_\_\_\_\_ (c) complete the new provider training offered by the Department.

\_\_\_\_\_ (2) If the owner is not a sole proprietor, the business entity shall submit to the Department the name(s) and contact information of the individual(s) who shall legally represent them and who shall comply with the requirements stated in R381-60-6(1).

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

\_\_\_\_\_ (4) The provider shall have knowledge of and comply with all federal, state, and local laws, ordinances, and rules, and shall be responsible for the operation and management of a child care program.

\_\_\_\_\_ (5) The provider shall comply with licensing rules at all times when a child in care is present.

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

\_\_\_\_\_ (7) The provider shall post a copy of the Department's Parent Guide at the facility for parent review during business hours.

\_\_\_\_\_ (8) The provider shall inform parents and the Department of any changes to the program's telephone number and other contact information within 48 hours of the change.

\_\_\_\_\_ (9) The provider shall establish, follow, and ensure that all staff and volunteers follow a written health and safety plan that is:

\_\_\_\_\_ (a) completed on the Department's required form,

\_\_\_\_\_ (b) submitted to the Department for initial approval and any time changes are made to the plan,

\_\_\_\_\_ (c) reviewed and updated as needed,

\_\_\_\_\_ (d) signed and dated at least annually, and

\_\_\_\_\_ (e) available for review by parents, staff, and the Department during business hours.

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

\_\_\_\_\_ (11) The admission and health assessment form shall include the following information:

\_\_\_\_\_ (a) child's name;

\_\_\_\_\_ (b) child's date of birth;

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

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

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

\_\_\_\_\_ (f) any special health instructions for the caregiver; and

\_\_\_\_\_ (g) certification that all immunizations are current.

\_\_\_\_\_ (12) The admission and health assessment form shall:

\_\_\_\_\_ (a) be signed by the parent; and

(b) kept on-site for review by the Department.

(13) Each child's information shall be kept confidential and shall not be released without written parental permission.

**R381-60-7. Personnel and Training Requirements.**

(1) The provider shall train and supervise employees and volunteers to ensure that they are qualified to:

(a) meet the needs of the children as required by rule, and

(b) be in compliance with all licensing rules.

(2) The provider shall ensure that the center has a qualified director as required by licensing rules.

(3) The director shall:

(a) be at least 21 years of age;

(b) pass a CCL background screening;

(c) receive at least 2.5 hours of preservice training before beginning job duties;

(d) complete the new director training offered by the Department within 60 working days of assuming director duties;

(e) have knowledge of and follow all applicable laws and rules; and

(f) complete at least 10 hours of child care training each year, based on the facility's license date.

(4) New directors shall have one of the following educational credentials:

(a) any bachelor's or higher education degree, and at least 60 clock hours of approved Utah Early Childhood Career Ladder courses in child development, social/emotional development, and the child care environment; or 60 clock hours of equivalent training as approved by the Department;

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

(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 equivalent credential as approved by the Department;

(d) at least a Level 9 from the Utah Early Childhood Career Ladder system; or

(e) a National Administrator Credential (NAC) and at least 60 clock hours of approved Utah Early Childhood Career Ladder courses in child development, social/emotional development, and the child care environment; or 60 clock hours of equivalent training as approved by the Department.

(5) The director shall arrange for a designee who shall have authority to act on behalf of the director in the director's absence.

(6) The director designee shall:

(a) be at least 21 years of age;

(b) pass a CCL background screening;

(c) receive at least 2.5 hours of preservice training before beginning job duties;

(d) have knowledge of and follow all applicable laws and rules; and

(e) complete at least 10 hours of child care training each year, based on the facility's license date.

(7) The director or the director designee shall be present at the facility whenever the center is open for care.

(8) The provider shall have on-site for review by the Department documentation of having employees who are on call and, when needed, can arrive at the facility within 20 minutes.

(9) Caregivers shall:

(a) be at least 16 years old;

(b) pass a CCL background screening;

(c) receive at least 2.5 hours of preservice training before caring for children;

(d) have knowledge of and follow all applicable laws and rules; and

(e) complete at least 10 hours of child care training each year, based on the facility's license date.

(10) Substitutes shall:

(a) be at least 18 years old;

(b) pass a CCL background screening;

(c) be capable of providing care, supervising children, and handling emergencies in the caregiver's absence;

(d) receive at least 2.5 hours of preservice training before caring for children; and

(e) complete at least 1/2 hour of child care training for each month they work 40 hours or more.

(11) All other employees such as drivers, cooks, and clerks shall:

(a) pass a CCL background screening.

(b) receive at least 2.5 hours of preservice training before beginning job duties, and

(c) have knowledge of and follow all applicable laws and rules.

(12) Volunteers shall:

(a) pass a CCL background screening, and

(b) not have unsupervised contact with any child in care if the volunteer is younger than 18 years of age.

(13) Guests:

(a) shall not have unsupervised contact with any child in care,

(b) shall wear a guest nametag, and

(c) are not required to pass a CCL background screening.

(14) Student interns who are registered and participating in a high school or college child care course:

(a) are not required to pass a CCL background screening,

(b) shall not have unsupervised contact with any child in care, and

(c) shall wear a guest nametag.

(15) Parents of children in care:

(a) shall not have unsupervised contact with any child in care except their own, and

(b) do not need a CCL background screening unless involved with child care in the center.

(16) Household members who are:

(a) 12 to 17 years old shall pass a CCL background screening;

(b) 18 years of age or older shall pass a CCL background screening that includes fingerprints; and

(c) younger than 18 years of age shall not have unsupervised contact with any child in care including during offsite activities and transportation.

(17) Individuals who provide IEP or IFSP services such as physical, occupational, or speech therapists:

(a) are not required to have a CCL background screening as long as the child's parent has given permission for services to take place at the center, and

\_\_\_\_\_ (b) shall provide proper identification before having access to the facility or a child at the facility.

\_\_\_\_\_ (18) Members from law enforcement or from Child Protective Services:

\_\_\_\_\_ (a) are not required to have a CCL background screening, and

\_\_\_\_\_ (b) shall provide proper identification before having access to the facility or a child at the facility.

\_\_\_\_\_ (19) Preservice training shall include the following:

\_\_\_\_\_ (a) job description and duties;

\_\_\_\_\_ (b) current Department rule sections R381-60-7 through 24;

\_\_\_\_\_ (c) the Department-approved health and safety plan that includes preparing for and responding to emergencies;

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

\_\_\_\_\_ (e) prevention of shaken baby syndrome and abusive head trauma, and coping with crying babies;

\_\_\_\_\_ (f) prevention of sudden infant death syndrome (SIDS) and the use of safe sleeping practices;

\_\_\_\_\_ (g) recognizing the signs of homelessness and available assistance;

\_\_\_\_\_ (h) a review of the information in each child's health assessment in the caregiver's assigned group; and

\_\_\_\_\_ (i) an introduction and orientation to the children in care.

\_\_\_\_\_ (20) Documentation of each individual's preservice training shall be kept on-site for review by the Department and include the following:

\_\_\_\_\_ (a) training topics,

\_\_\_\_\_ (b) date of the training, and

\_\_\_\_\_ (c) total hours or minutes of training.

\_\_\_\_\_ (21) Annual child care training shall include the following topics:

\_\_\_\_\_ (a) current Department rule sections R381-60-7 through 24;

\_\_\_\_\_ (b) the Department-approved health and safety plan that includes preparing for and responding to emergencies;

\_\_\_\_\_ (c) the prevention, signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;

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

\_\_\_\_\_ (e) positive guidance and interactions with children;

\_\_\_\_\_ (f) prevention of shaken baby syndrome and abusive head trauma, and coping with crying babies;

\_\_\_\_\_ (g) prevention of sudden infant death syndrome (SIDS) and use of safe sleeping practices; and

\_\_\_\_\_ (h) recognizing the signs of homelessness and available assistance.

\_\_\_\_\_ (22) At least 5 of the 10 hours of annual child care training shall be face-to-face instruction.

\_\_\_\_\_ (23) Individuals who are required to receive annual child care training and who begin employment partway through the facility's license year shall complete a proportionate number of training hours including the face-to-face instruction.

\_\_\_\_\_ (24) Documentation of each individual's annual child care training shall be kept on-site for review by the Department and include the following:

\_\_\_\_\_ (a) training topic,

\_\_\_\_\_ (b) date of the training,

\_\_\_\_\_ (c) whether the training was face-to-face or non-face-to-face instruction,

\_\_\_\_\_ (d) name of the person or organization that presented the training, and

\_\_\_\_\_ (e) total hours or minutes of training.

\_\_\_\_\_ (25) Whenever there are children at the center, there shall be at least one caregiver present who can demonstrate English literacy skills needed to care for children and respond to emergencies.

\_\_\_\_\_ (26) At least one staff member with a current Red Cross, American Heart Association, or equivalent first aid and infant/child CPR certification shall be present when children are in care:

\_\_\_\_\_ (a) at the facility,

\_\_\_\_\_ (b) in each vehicle transporting children, and

\_\_\_\_\_ (c) at each offsite activity.

\_\_\_\_\_ (27) CPR certification shall include hands-on testing.

\_\_\_\_\_ (28) The following records for each covered individual shall be kept on-site for review by the Department:

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

\_\_\_\_\_ (b) a copy of the current background screening card issued by the Department;

\_\_\_\_\_ (c) a current first aid and CPR certification, if required in rule; and

\_\_\_\_\_ (d) a six-week record of the times worked each day.

#### **R381-60-8. Background Screenings.**

\_\_\_\_\_ (1) The provider shall ensure that an online CCL background screening form is submitted within 10 working days from when:

\_\_\_\_\_ (a) a new covered individual becomes involved with the program,

\_\_\_\_\_ (b) a new covered individual age 12 years or older begins living in the facility, and

\_\_\_\_\_ (c) a child who resides in the facility turns 12 years old.

\_\_\_\_\_ (2) Unless an exception is granted in rule, the provider shall ensure that a CCL background screening for each individual age 18 years or older includes fingerprints and fingerprints fees.

\_\_\_\_\_ (3) The fingerprints shall be prepared by a local law enforcement agency or an agency approved by local law enforcement.

\_\_\_\_\_ (4) If fingerprints are submitted through Live Scan (electronically), the agency taking the fingerprints shall follow the Department's guidelines.

\_\_\_\_\_ (5) Fingerprints are not required if:

\_\_\_\_\_ (a) the covered individual has resided in Utah continuously for the past 5 years, or since the individual's 18th birthday and will only be involved with child care in a program that was licensed or certified prior to 1 July 2013; or

\_\_\_\_\_ (b) the covered individual has previously submitted fingerprints to the Department under this section for a national criminal history record check and has resided in Utah continuously since that time.

\_\_\_\_\_ (6) Background screenings are valid for 1 year and shall be renewed before the last day of the month listed on the covered individual's background screening card.

\_\_\_\_\_ (7) At least 2 weeks before the end of the month that is written on a covered individual's background screening card, the provider shall:

\_\_\_\_\_ (a) have the individual submit an online CCL background screening form.

\_\_\_\_\_ (b) authorize the individual's background screening form, and

\_\_\_\_\_ (c) pay all required fees.

\_\_\_\_\_ (8) Regardless of any exception in rule, if an in-state criminal background screening indicates that a covered individual age 18 years or older has a background finding, the Department may require that individual to submit fingerprints and fees in order for the Department to conduct a national criminal background screening for that individual.

\_\_\_\_\_ (9) The following background findings may deny a covered individual from being involved with child care:

\_\_\_\_\_ (a) LIS supported findings,

\_\_\_\_\_ (b) the individual's name appears on the Utah or national sex offender registry,

\_\_\_\_\_ (c) any felony convictions,

\_\_\_\_\_ (d) any Misdemeanor A convictions, or

\_\_\_\_\_ (e) Misdemeanor B and C convictions for the reasons listed in R381-60-8(10).

\_\_\_\_\_ (10) The following convictions, regardless of severity, may result in a background screening denial:

\_\_\_\_\_ (a) unlawful sale or furnishing alcohol to minors;

\_\_\_\_\_ (b) sexual enticing of a minor;

\_\_\_\_\_ (c) cruelty to animals, including dogfighting;

\_\_\_\_\_ (d) bestiality;

\_\_\_\_\_ (e) lewdness, including lewdness involving a child;

\_\_\_\_\_ (f) voyeurism;

\_\_\_\_\_ (g) providing dangerous weapons to a minor;

\_\_\_\_\_ (h) a parent providing a firearm to a violent minor;

\_\_\_\_\_ (i) a parent knowing of a minor's possession of a dangerous weapon;

\_\_\_\_\_ (j) sales of firearms to juveniles;

\_\_\_\_\_ (k) pornographic material or performance;

\_\_\_\_\_ (l) sexual solicitation;

\_\_\_\_\_ (m) prostitution and related crimes;

\_\_\_\_\_ (n) contributing to the delinquency of a minor;

\_\_\_\_\_ (o) any crime against a person;

\_\_\_\_\_ (p) a sexual exploitation act;

\_\_\_\_\_ (q) leaving a child unattended in a vehicle; and

\_\_\_\_\_ (r) driving under the influence (DUI) while a child is present in the vehicle.

\_\_\_\_\_ (11) A covered individual with a Class A misdemeanor background finding not listed in R381-60-8(10) may be involved with child care when:

\_\_\_\_\_ (a) 10 or more years have passed since the Class A misdemeanor offense, and

\_\_\_\_\_ (b) there is no other conviction for the individual in the past 10 years.

\_\_\_\_\_ (12) A covered individual with a Class A misdemeanor background finding not listed in R381-60-8(10) may be involved with child care for up to 6 months if:

\_\_\_\_\_ (a) 5 to 9 years have passed since the offense,

\_\_\_\_\_ (b) there is no other conviction since the Class A misdemeanor offense,

\_\_\_\_\_ (c) the individual provides to the Department documentation of an active petition for expungement, and

\_\_\_\_\_ (d) the provider ensures that the individual does not have unsupervised contact with any child in care.

\_\_\_\_\_ (13) If a petition for expungement is denied, the covered individual shall no longer be involved with child care.

\_\_\_\_\_ (14) A covered individual shall not be denied if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred 10 or more years before the CCL background screening was conducted.

\_\_\_\_\_ (15) The Department may rely on the criminal background screening findings as conclusive evidence of the arrest warrant, arrest, charge, or conviction; and the Department may revoke, suspend, or deny a license or employment based on that evidence.

\_\_\_\_\_ (16) If the provider has a background screening denial, the Department may suspend or deny their license until the reason for the denial is resolved.

\_\_\_\_\_ (17) If a covered individual has a background screening denial, the Department may prohibit that individual from being employed by the child care program or residing at the facility until the reason for the denial is resolved.

\_\_\_\_\_ (18) If a covered individual is denied a license or employment based upon the criminal background screening and disagrees with the information provided by the Department of Public Safety, the covered individual may appeal the information as provided in Utah Code, Sections 77-18-10 through 77-18-14 and 77-18a-1.

\_\_\_\_\_ (19) If a covered individual disagrees with a supported finding on the Department of Human Services Licensing Information System (LIS):

\_\_\_\_\_ (a) the individual cannot appeal the supported finding to the Department of Health, and

\_\_\_\_\_ (b) the covered individual may appeal the finding to the Department of Human Services and follow the process established by the Department of Human Services.

\_\_\_\_\_ (20) Within 48 hours of becoming aware of a covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or supported LIS finding, the provider and the covered individual shall notify the Department. Failure to notify the Department within 48 hours may result in disciplinary action, including revocation of the license.

\_\_\_\_\_ (21) The Executive Director of the Department of Health may overturn a background screening denial under the following conditions:

\_\_\_\_\_ (a) the background finding is not a felony, and

\_\_\_\_\_ (b) the Executive Director determines that the nature of the background finding or mitigating circumstances do not pose a risk to children.

#### **R381-60-9. Facility.**

\_\_\_\_\_ (1) There shall be at least 35 square feet of indoor space for each child in care, including the provider's and employees' children.

\_\_\_\_\_ (2) 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.

\_\_\_\_\_ (3) The following areas are not included when measuring indoor space for children's use:

\_\_\_\_\_ (a) bathrooms,

\_\_\_\_\_ (b) closets and staff lockers,

\_\_\_\_\_ (c) hallways,

\_\_\_\_\_ (d) lobbies and entryways.

(e) kitchens, and  
(f) staff offices.  
(4) The maximum allowed capacity for a child care facility may be limited by local ordinances.  
(5) The number of children in care at any given time shall not exceed the capacity identified on the license.  
(6) The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint is tested for lead. If lead-based paint is found, the provider shall contact their local health department within 5 working days and follow required procedures for remediation of the lead hazard.  
(7) Each room and indoor area that is used by children shall be ventilated by mechanical ventilation, or by windows that open and have screens.  
(8) All rooms and areas shall have adequate light intensity for the safety of the children and the type of activity being conducted.  
(9) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.  
(10) There shall be a working telephone at the facility, in each vehicle while transporting children, and during offsite activities.  
(11) There shall be a working handwashing sink used exclusively for handwashing.  
(12) For preschoolers and toddlers who are toilet trained, there shall be 1 working toilet and 1 working sink for every 15 children in the center. For school-age children, there shall be 1 working toilet and 1 working sink for every 25 children in the center.  
(13) A bathroom that provides privacy shall be available for use by school-age children.  
(14) If there is an outdoor area used by children, the area shall:  
(a) be safely accessible to children;  
(b) have at least 40 square feet of space for each child using the area at one time; and  
(c) be enclosed within a fence, wall, or solid natural barrier that is at least 4 feet high and that has no gap 5 by 5 inches or greater in or under it.  
(15) When children are outdoors:  
(a) children shall be in the enclosed area except during offsite activities, and  
(b) there shall be shade available to protect the children from excessive sun and heat.  
(16) If there is a swimming pool on the premises that is not emptied after each use:  
(a) the provider shall meet applicable state and local laws and ordinances related to the operation of a swimming pool and maintain the pool in a safe manner; and  
(b) when not in use, the pool shall be enclosed within at least a 4-foot-high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises, or covered with an approved enclosure that meets the ASTM F1346 standard.  
(17) The provider shall maintain buildings and outdoor areas in good repair and safe condition including:  
(a) ceilings, walls, and floor coverings;  
(b) lighting, bathroom, and other fixtures;  
(c) draperies, blinds, and other window coverings;  
(d) indoor and outdoor play equipment;  
(e) furniture, toys, and materials accessible to the children;  
and

(f) entrances, exits, steps, and walkways including keeping them free of ice, snow, and other hazards.  
(18) Accessible raised decks or balconies that are 5 feet or higher, and open basement stairwells that are 5 feet or deeper shall have protective barriers that are at least 3 feet high.  
(19) If the facility is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, the entire facility shall be inspected and covered individuals in the facility shall comply with all rules, except when all of the following conditions are met:  
(a) there is a separate entrance for the child care program;  
(b) there are no connecting interior doorways that can be used by unauthorized individuals; and  
(c) there is no shared access to the outdoor area used for child care, or a qualified caregiver is present when children are using a shared outdoor area of the facility.

**R381-60-10. Ratios and Group Size.**

(1) As listed in Table 1, the provider shall:  
(a) maintain at least the number of caregivers and not exceed the number of children in the caregiver-to-child ratio, and  
(b) not exceed maximum group sizes.

TABLE 1

Caregiver-to-Child Ratios		
# of	# of	
Caregivers	Children	Limits for Mixed Ages
1	12 per group	No children younger than age 2
1	8 per group	2 children younger than age 2
1	6 in the facility	3 children younger than age 2
2	24 per group	No children younger than age 2
2	16 per group	4 children younger than age 2

(2) Children in care shall include the provider's and caregivers' own children younger than age 4 years old.  
(3) The provider's and caregivers' own children age 4 years and older shall not be counted in the caregiver-to-child ratios and group sizes when the parent of the child is working at the center.  
(4) If more than 2 infants or toddlers are included in a mixed-age group, and the group has more than 6 children, there shall be at least 2 caregivers with the group unless there are 6 or fewer children in the facility.  
(5) When caring for children younger than age 2 years, old in single-age groups:  
(a) there shall be no more than 4 children with 1 caregiver, and  
(b) these children shall be cared for in an area that is physically separated from older children.  
(6) If there is only 1 caregiver in the facility and no children younger than 2 years old are present, the provider can be temporarily out of ratio if:  
(a) a second caregiver arrives within 20 minutes from when the 13th child arrived, and  
(b) the total number of children present does not exceed 16.  
(7) Caregivers who are 16 or 17 years old may be included in the caregiver-to-child ratio, but shall not have unsupervised contact with any child in care.  
(8) Volunteers may be included in the caregiver-to-child ratio if they:

- \_\_\_\_\_ (a) are at least 16 years old.
- \_\_\_\_\_ (b) receive at least 2.5 hours of preservice training before counting in the caregiver-to-child ratio, and
- \_\_\_\_\_ (c) complete at least 1/2 hour of child care training for each month they volunteer 40 hours or more.
- \_\_\_\_\_ (9) Student interns who are registered in a high school or college child care course may count in the caregiver-to-child ratio when requirements in R381-60-7(14)(a)-(c) are met.
- \_\_\_\_\_ (10) Guests shall not count in caregiver-to-child ratio.

**R381-60-11. Child Supervision and Security.**

- \_\_\_\_\_ (1) The provider shall ensure that caregivers provide and maintain active supervision of each child at all times.
- \_\_\_\_\_ (2) Active supervision shall include:
  - \_\_\_\_\_ (a) for children younger than 5 years of age, the caregiver shall be physically present in the room or area with the children;
  - \_\_\_\_\_ (b) for school-age children, the caregiver shall be able to hear the children and be close enough to intervene;
  - \_\_\_\_\_ (c) caregivers shall know the number of children in their care at all times;
  - \_\_\_\_\_ (d) caregivers' attention shall be focused on the children and not on caregivers' personal interests;
  - \_\_\_\_\_ (e) caregivers shall be aware of the entire group of children even when interacting with a smaller group or an individual child; and
  - \_\_\_\_\_ (f) caregivers shall position themselves so all children in their assigned group are actively supervised.
- \_\_\_\_\_ (3) When video cameras and mirrors are used to supervise napping children:
  - \_\_\_\_\_ (a) the napping room shall be adjacent to a non-napping room;
  - \_\_\_\_\_ (b) there shall be a staff member in the non-napping room;
  - \_\_\_\_\_ (c) cameras or mirrors shall be positioned so that every child can be seen;
  - \_\_\_\_\_ (d) the staff member shall be able to see and hear each child;
  - \_\_\_\_\_ (e) there shall be an open door without a barrier, such as a gate, between the napping room and the non-napping room; and
  - \_\_\_\_\_ (f) children who wake up shall be moved to the non-napping room.
- \_\_\_\_\_ (4) A blanket or other item shall not be placed over sleeping equipment in such a way that prevents the caregiver from seeing the sleeping child.
- \_\_\_\_\_ (5) Whenever a child is in care, the child's parent shall have access to their child and the areas used to care for their child.
- \_\_\_\_\_ (6) To maintain security and supervision of children, the provider shall ensure that:
  - \_\_\_\_\_ (a) each child is signed in and out;
  - \_\_\_\_\_ (b) only parents or persons with written authorization from the parent may sign out a child;
  - \_\_\_\_\_ (c) photo identification is required if the individual signing the child in or out is unknown to the provider;
  - \_\_\_\_\_ (d) persons signing children in and out use identifiers, such as a signature, initials, or electronic code;
  - \_\_\_\_\_ (e) the sign-in and sign-out records include the date and time each child arrives and leaves; and
  - \_\_\_\_\_ (f) there is written permission from their parents if school-age children sign themselves in and out.

\_\_\_\_\_ (7) In an emergency, the caregiver shall accept the parent's verbal authorization to release a child when the caregiver can confirm the identity of:

- \_\_\_\_\_ (a) the person giving verbal authorization, and
- \_\_\_\_\_ (b) the person picking up the child.
- \_\_\_\_\_ (8) A six-week record of each child's daily attendance, including sign-in and sign-out records, shall be kept on-site for review by the Department.

**R381-60-12. Child Guidance and Interaction.**

- \_\_\_\_\_ (1) The provider shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.
- \_\_\_\_\_ (2) The provider shall inform parents, children, and those who interact with the children of the center's behavioral expectations and how any misbehavior will be handled.
- \_\_\_\_\_ (3) Individuals who interact with the children shall guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.
- \_\_\_\_\_ (4) Caregivers shall use gentle, passive restraint with children only when it is needed to stop children from injuring themselves or others, or from destroying property.
- \_\_\_\_\_ (5) Interactions with the children shall not include:
  - \_\_\_\_\_ (a) any form of corporal punishment or any action that produces physical pain or discomfort such as hitting, spanking, shaking, biting, or pinching;
  - \_\_\_\_\_ (b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint;
  - \_\_\_\_\_ (c) shouting at children;
  - \_\_\_\_\_ (d) any form of emotional abuse;
  - \_\_\_\_\_ (e) forcing or withholding food, rest, or toileting; or
  - \_\_\_\_\_ (f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.
- \_\_\_\_\_ (6) Any person who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in Utah Code Section 62A-4a-403 and Section 62A-4a-411.

**R381-60-13. Child Safety and Injury Prevention.**

- \_\_\_\_\_ (1) The building, outdoor area, toys, and equipment shall be used in a safe manner and as intended by the manufacturer to prevent injury to children.
- \_\_\_\_\_ (2) Harmful objects and hazards, such as the following, shall be inaccessible to children:
  - \_\_\_\_\_ (a) poisonous and harmful plants;
  - \_\_\_\_\_ (b) sharp objects, edges, corners, or points that could cut or puncture skin;
  - \_\_\_\_\_ (c) for children younger than 3 years of age, choking hazards;
  - \_\_\_\_\_ (d) strangulation hazards such as ropes, cords, chains, and wires attached to a structure and long enough to encircle a child's neck;
  - \_\_\_\_\_ (e) tripping hazards such as unsecured flooring, rugs with curled edges, or cords in walkways;
  - \_\_\_\_\_ (f) for children younger than 5 years of age, empty plastic bags large enough for a child's head to fit inside, latex gloves, and balloons; and



(g) standing water that measures 2 inches or deeper and 5 by 5 inches or greater in diameter.

(3) Toxic or hazardous chemicals such as cleaners, insecticides, lawn products, and flammable materials shall be:

(a) inaccessible to children.

(b) used according to manufacturer instructions, and

(c) stored in containers labeled with their contents.

(4) Items and substances that could burn a child or start a fire shall be inaccessible, such as:

(a) matches or cigarette lighters;

(b) open flames;

(c) hot wax or other substances; and

(d) when in use, portable space heaters, wood burning stoves, and fireplaces of all types.

(5) Children shall be protected from items that cause electrical shock such as:

(a) live electrical wires; and

(b) for children younger than 5 years of age, electrical outlets and surge protectors without protective caps or safety devices when not in use.

(6) Unless used and stored in compliance with the Utah Concealed Weapons Act or as otherwise allowed by law, firearms such as guns, muzzles loaders, rifles, shotguns, hand guns, pistols, and automatic guns shall:

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

(b) stored unloaded and separate from ammunition.

(7) Weapons such as paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace shall be inaccessible to children.

(8) Alcohol, illegal substances, and sexually explicit material shall be inaccessible, and shall not be used on the premises, during offsite activities, or in center vehicles any time a child is in care.

(9) An outdoor source of drinking water, such as individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain shall be available to each child whenever the outside temperature is 75 degrees or higher.

(10) Areas accessible to children shall be free of heavy or unstable objects that children could pull down on themselves, such as furniture, unsecured televisions, and standing ladders.

(11) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.

(12) Highchairs shall have T-shaped safety straps or devices that are used whenever a child is in the chair.

(13) Infant walkers with wheels shall be inaccessible to children.

(14) In compliance with the Utah Indoor Clean Air Act, tobacco, e-cigarettes, e-juice, e-liquids, and similar products shall be inaccessible and not used:

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

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

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

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

#### **R381-60-14. Emergency Preparedness and Response.**

(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 or in an area clearly visible to anyone needing the information.

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

(3) The provider shall conduct fire evacuation drills monthly. Drills shall include a complete exit of all children, staff, and volunteers from the building.

(4) The provider shall document each fire drill, 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.

(5) The provider shall conduct drills for disasters other than fires at least once every 6 months.

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

(a) the type of disaster, such as earthquake, flood, prolonged power or water outage, or 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.

(7) The provider shall vary the days and times on which fire and other disaster drills are held.

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

(9) In case of an emergency or disaster, the provider and employees shall follow procedures as outlined in the center's health and safety plan.

(10) The provider shall give parents a written report of every incident, accident, or injury involving their child:

(a) the caregivers involved, the center director, and the person picking up the child shall sign the report on the day of occurrence; and

(b) if school-age children sign themselves out of the center, a copy of the report shall be sent to the parent on the day of the occurrence or given to the parent the next day the child attends the program.

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

(12) 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:

(a) emergency personnel shall be called immediately;

(b) after emergency personnel are called, then the parent shall be contacted; and

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

(13) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall:

(a) submit a completed accident report form to the Department within the next business day of the incident; or

\_\_\_\_\_ (b) contact the Department within the next business day and submit a completed accident report form within 5 business days of the incident.

\_\_\_\_\_ (14) The provider shall keep a six-week record of every incident, accident, and injury report on-site for review by the Department.

**R381-60-15. Health and Infection Control.**

\_\_\_\_\_ (1) The building, furnishings, equipment, and outdoor area shall be kept clean and sanitary including:

\_\_\_\_\_ (a) ceilings, walls, and flooring shall be clean and free of spills, dirt, and grime;

\_\_\_\_\_ (b) areas and equipment used for the storage, preparation, and service of food shall be clean and sanitary;

\_\_\_\_\_ (c) surfaces used by children shall be free of rotting food or a build-up of food;

\_\_\_\_\_ (d) the building and grounds shall be free of a build-up of litter, trash, and garbage; and

\_\_\_\_\_ (e) the facility shall be free of animal feces.

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

\_\_\_\_\_ (3) All toys and materials including those used by infants and toddlers shall be cleaned:

\_\_\_\_\_ (a) at least weekly or more often if needed.

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

\_\_\_\_\_ (c) after being contaminated by a body fluid.

\_\_\_\_\_ (4) Fabric toys and items such as stuffed animals, cloth dolls, pillows, and dress-up clothes shall be machine washable and washed weekly, and as needed.

\_\_\_\_\_ (5) Highchair trays shall be cleaned and sanitized before each use.

\_\_\_\_\_ (6) Water play tables or tubs shall be cleaned and sanitized daily, if used by the children.

\_\_\_\_\_ (7) Bathroom surfaces including toilets, sinks, faucets, and counters shall be cleaned and sanitized each day.

\_\_\_\_\_ (8) Potty chairs shall be cleaned and sanitized after each use.

\_\_\_\_\_ (9) Toilet paper shall be accessible to children and kept in a dispenser.

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

\_\_\_\_\_ (11) Staff and volunteers shall wash their hands thoroughly with liquid soap and running water at required times including:

\_\_\_\_\_ (a) before handling or preparing food or bottles,

\_\_\_\_\_ (b) before and after eating meals and snacks or feeding a child,

\_\_\_\_\_ (c) after using the toilet or helping a child use the toilet,

\_\_\_\_\_ (d) after contact with a body fluid,

\_\_\_\_\_ (e) when coming in from outdoors, and

\_\_\_\_\_ (f) after cleaning up or taking out garbage.

\_\_\_\_\_ (12) Caregivers shall teach children how to wash their hands thoroughly and shall oversee handwashing whenever possible.

\_\_\_\_\_ (13) The provider shall ensure that children wash their hands thoroughly with liquid soap and running water at required times including:

\_\_\_\_\_ (a) before and after eating meals and snacks,

\_\_\_\_\_ (b) after using the toilet,

\_\_\_\_\_ (c) after contact with a body fluid,

\_\_\_\_\_ (d) before using a water play table or tub, and

\_\_\_\_\_ (e) when coming in from outdoors.

\_\_\_\_\_ (14) Only single-use towels from a covered dispenser or an electric hand dryer may be used to dry hands.

\_\_\_\_\_ (15) Personal hygiene items, such as toothbrushes, combs, and hair accessories, shall not be shared and shall be stored so they do not touch each other, or they shall be sanitized between each use.

\_\_\_\_\_ (16) Pacifiers, bottles, and nondisposable drinking cups shall:

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

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

\_\_\_\_\_ (17) A child's clothing shall be promptly changed if the child has a toileting accident.

\_\_\_\_\_ (18) Children's clothing that is wet or soiled from a body fluid shall:

\_\_\_\_\_ (a) not be rinsed or washed at the center,

\_\_\_\_\_ (b) be placed in a leakproof container that is labeled with the child's name, and

\_\_\_\_\_ (c) be returned to the parent.

\_\_\_\_\_ (19) Staff shall use a portable body fluid cleanup kit for cleaning up body fluid spills. The kit shall be:

\_\_\_\_\_ (a) in a place easily accessed by staff, and

\_\_\_\_\_ (b) restocked as needed.

\_\_\_\_\_ (20) Staff shall take precautions when cleaning floors, furniture, and other surfaces contaminated by blood, urine, feces, or vomit. Except for diaper changes and toileting accidents, staff shall:

\_\_\_\_\_ (a) wear waterproof gloves;

\_\_\_\_\_ (b) clean the surface using a detergent solution;

\_\_\_\_\_ (c) rinse the surface with clean water;

\_\_\_\_\_ (d) sanitize the surface;

\_\_\_\_\_ (e) throw away in a leakproof plastic bag the disposable materials, such as paper towels, that were used to clean up the body fluid;

\_\_\_\_\_ (f) wash and sanitize any nondisposable materials used to clean up the body fluid, such as cleaning cloths, mops, or reusable rubber gloves, before reusing them; and

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

\_\_\_\_\_ (21) When any child or employee has an infectious disease, an unusual or serious illness, or a sudden onset of an illness, the provider shall notify the local health department on the day the illness is discovered.

\_\_\_\_\_ (22) The provider shall post a notice at the center when any staff member or child has an infectious disease or parasite. The notice shall:

\_\_\_\_\_ (a) not disclose any personal identifiable information,

\_\_\_\_\_ (b) be posted in a conspicuous place where it can be seen by all parents,

\_\_\_\_\_ (c) be posted and dated on the same day that the disease or parasite is discovered, and

\_\_\_\_\_ (d) remain posted for at least 5 days.

\_\_\_\_\_ (23) To prevent contamination of food, the spread of foodborne illnesses, and other diseases, individuals with an infectious disease or showing symptoms such as diarrhea, fever, and vomit shall not prepare or serve foods.

**R381-60-16. Food and Nutrition.**

If food service is provided:

(1) The provider shall ensure that each child age 2 years and older who is in care for 3 hours or more is offered a meal or snack at least once every 3 hours.

(2) When food for children's meals and/or snacks is supplied by the provider the meal service shall meet local health department food service regulations.

(3) The person who serves food to children shall:

(a) be aware of the children in their assigned group who have food allergies or sensitivities, and

(b) ensure that the children are not served the food or drink they are allergic or sensitive to.

(4) Children's food shall be served on dishes, napkins, or sanitary highchair trays, except an individual finger food, such as a cracker, that may be placed directly in a child's hand. Food shall not be placed on a bare table.

(5) Food and drink brought in by parents for their child's use shall be:

(a) labeled with the child's name,

(b) refrigerated if needed, and

(c) consumed only by that child.

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

(1) Nonrefrigerated medications shall be stored at least 48 inches above the floor or shall be locked.

(2) Refrigerated medications shall be stored at least 36 inches above the floor or shall be locked, and if liquid, they shall be stored in a separate leakproof container.

(3) All over-the-counter and prescription medications supplied by parents 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.

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

(5) The medication permission form shall include:

(a) the name of the child,

(b) the name of the medication,

(c) written instructions for administration, and

(d) the parent signature and the date signed.

(6) The instructions for administering the medication shall include:

(a) the dosage,

(b) how the medication will be given,

(c) the times and dates to administer the medication, and

(d) the disease or condition being treated.

(7) If the provider supplies an over-the-counter medication for children's use, the medication shall not be administered to any child without previous parental consent for each instance it is given. The consent shall be:

(a) prior written consent; or

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

(8) The caregiver administering the medication shall:

(a) wash their hands,

(b) check the medication label to confirm the child's name if the parent supplied the medication.

(c) check the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer, and

(d) administer the medication.

(9) Immediately after administering a medication, the caregiver giving the medication shall record the following information:

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

(b) any errors in administration or adverse reactions; and

(c) their signature or initials.

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

(11) 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 before the time the medication needs to be given.

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

**R381-60-18. Activities.**

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

(2) If an approved outdoor area is available, daily activities shall include outdoor play as weather and air quality allow.

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

(4) Toys, materials, and equipment needed to support children's healthy development shall be available to the children.

(5) Except for occasional special events, children's screen time on media such as television, cell phones, tablets, and computers shall:

(a) not be allowed for children 0 to 17 months old;

(b) be limited for children 18 months to 4 years old to 1 hour per day, or 5 hours per week with a maximum screen time of 2 hours per activity; and

(c) be part of a media plan that addresses the needs of children 5 to 12 years old.

(6) If swimming activities are offered or if wading pools are used:

(a) the provider shall obtain parental permission before each child in care uses the pool;

(b) caregivers shall stay at the pool supervising whenever a child is in the pool or has access to the pool, and whenever a wading pool has water in it;

(c) diapered children shall wear swim diapers whenever they are in the pool;

(d) wading pools shall be emptied and sanitized after use by each group of children;

(e) if the pool is over 4 feet deep, there shall be a lifeguard on duty who is certified by the Red Cross or other approved certification program any time children have access to the pool; and

\_\_\_\_\_ (f) lifeguards and pool personnel shall not count toward the caregiver-to-child ratio.

\_\_\_\_\_ (7) If offsite activities are offered:

\_\_\_\_\_ (a) the provider shall obtain written parental consent before each activity;

\_\_\_\_\_ (b) the required caregiver-to-child ratio and supervision shall be maintained during the entire activity;

\_\_\_\_\_ (c) a first aid kit shall be available;

\_\_\_\_\_ (d) children shall wear or carry with them the name and phone number of the center;

\_\_\_\_\_ (e) children's names shall not be used on nametags, t-shirts, or in other visible ways; and

\_\_\_\_\_ (f) there shall be a way for caregivers and children to wash their hands with soap and water, or if there is no source of running water, caregivers and children shall clean their hands with wet wipes and hand sanitizer.

\_\_\_\_\_ (8) On every offsite activity, caregivers shall take the written emergency information and releases for each child in the group. The information shall include:

\_\_\_\_\_ (a) the child's name;

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

\_\_\_\_\_ (c) the name and phone number of a person to notify in case of an emergency if the parent cannot be contacted;

\_\_\_\_\_ (d) the names of people authorized by the parents to pick up the child, and

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

#### **R381-60-19. Play Equipment.**

\_\_\_\_\_ (1) The provider shall ensure that children using play equipment use it safely and in the manner intended by the manufacturer.

\_\_\_\_\_ (2) The designated play surface on stationary play equipment used by infants or toddlers shall not exceed 3 feet in height.

\_\_\_\_\_ (3) Swings used by infants or toddlers shall have enclosed seats.

\_\_\_\_\_ (4) Stationary play equipment shall have a surrounding use zone that extends from the outermost edge of the equipment. With the exception of swings, stationary play equipment that is:

\_\_\_\_\_ (a) used by infants or toddlers shall have at least a 3-foot use zone if any designated play surface is higher than 18 inches.

\_\_\_\_\_ (b) used by preschoolers shall have at least a 6-foot use zone if any designated play surface is higher than 20 inches, and

\_\_\_\_\_ (c) used by school-age children shall have at least a 6-foot use zone if any designated play surface is higher than 30 inches.

\_\_\_\_\_ (5) The use zone in the front and rear of a single-axis, enclosed swing shall extend at least twice the distance of the swing pivot point to the swing seat.

\_\_\_\_\_ (6) The use zone in the front and rear of a single-axis swing shall extend at least twice the distance of the swing pivot point to the ground.

\_\_\_\_\_ (7) The use zone for the sides of a single-axis swing shall extend:

\_\_\_\_\_ (a) at least 3 feet from the outermost edge of the swing if used by infants or toddlers, or

\_\_\_\_\_ (b) at least 6 feet from the outermost edge of the swing if used by preschoolers or school-age children.

\_\_\_\_\_ (8) The use zone for a multi-axis swing, such as a tire swing, shall extend:

\_\_\_\_\_ (a) at least the measurement of the suspending rope or chain plus 3 feet, if the swing is used by infants or toddlers; or

\_\_\_\_\_ (b) at least the measurement of the suspending rope or chain plus 6 feet, if the swing is used by preschoolers or school-age children.

\_\_\_\_\_ (9) The use zone for a merry-go-round shall extend:

\_\_\_\_\_ (a) at least 3 feet in all directions from its outermost edge if the merry-go-round is used by infants or toddlers, or

\_\_\_\_\_ (b) at least 6 feet in all directions from its outermost edge if the merry-go-round is used by preschoolers or school-age children.

\_\_\_\_\_ (10) The use zone for a spring rocker shall extend:

\_\_\_\_\_ (a) at least 3 feet from the outermost edge of the rocker when at rest; or

\_\_\_\_\_ (b) at least 6 feet from the outermost edge of the rocker when at rest if the seat is higher than 20 inches, and the rocker is used by preschoolers or school-age children.

\_\_\_\_\_ (11) The following use zones shall not overlap the use zone of any other piece of play equipment:

\_\_\_\_\_ (a) the use zone in front of a slide;

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

\_\_\_\_\_ (c) the use zone of a multi-axis swing; and

\_\_\_\_\_ (d) the use zone of a merry-go-round if the platform diameter measures 20 inches or more.

\_\_\_\_\_ (12) Unless prohibited in R381-60-19(11), the use zones of play equipment may overlap when:

\_\_\_\_\_ (a) the equipment is used by infants or toddlers, and there is at least 3 feet between the pieces of equipment; or

\_\_\_\_\_ (b) the equipment is used by preschoolers or school-age children and there is at least 6 feet between the pieces of equipment if the designated play surface is 30 inches or lower, or there is at least 9 feet between the pieces of equipment if the designated play surface is higher than 30 inches.

\_\_\_\_\_ (13) Stationary play equipment without moving parts children sit or stand on shall not be placed on concrete, asphalt, dirt, a bare floor, or any other hard surface, but may be placed on grass or other cushioning, if the highest designated play surface measures between:

\_\_\_\_\_ (a) 6 to 18 inches if used by infants or toddlers,

\_\_\_\_\_ (b) 6 to 20 inches if used by preschoolers, and

\_\_\_\_\_ (c) 6 to 30 inches if used by school-age children.

\_\_\_\_\_ (14) Protective cushioning shall cover the entire surface of each required use zone and its depth or thickness shall be determined by the highest designated play surface of the equipment.

\_\_\_\_\_ (15) If sand, gravel, or shredded tires are used as protective cushioning, the depth of the material shall meet the CPSC guidelines in Table 2.

\_\_\_\_\_ (a) the provider shall ensure that the cushioning is periodically checked for compaction and loosened to the depth listed in Table 2 if compacted; and

\_\_\_\_\_ (b) 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 2**  
Depths of Protective Cushioning Required  
for Sand, Gravel, and Shredded Tires

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Fine	Coarse	Fine	Medium	Shredded
	Sand	Sand	Gravel	Gravel	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'	6"	9"	6"	9"	6"
Over 6' up to 7'	9"	not allowed	9"	not allowed	6"
Over 7' up to 8'	9"	not allowed	9"	not allowed	6"
Over 8' up to 9'	9"	not allowed	9"	not allowed	6"
Over 9' up to 10'	not allowed	not allowed	9"	not allowed	6"
Over 10' up to 11'	not allowed	not allowed	not allowed	not allowed	6"
Over 11' up to 12'	not allowed	not allowed	not allowed	not allowed	6"

(16) If shredded wood products are used as protective cushioning:

(a) the provider shall keep on-site for review by the Department documentation from the manufacturer that the wood product meets ASTM Specification F1292.

(b) there shall be adequate drainage under the material, and

(c) the depth of the shredded wood shall meet the CPSC guidelines in Table 3.

**TABLE 3**  
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"	6"	9"	9"
Over 7' up to 8'	9"	9"	9"	9"
Over 8' up to 9'	9"	9"	9"	9"
Over 9' up to 10'	9"	9"	9"	9"
Over 10' up to 11'	9"	9"	9"	9"
Over 11'	9"	not allowed	not allowed	not allowed

(17) If a unitary cushioning is used, the provider shall ensure that the material meets the standard established in ASTM Specification F1292. The provider shall maintain on-site for review by the Department documentation from the manufacturer that the material meets these specifications.

(18) If a unitary cushioning is used, the provider 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.

(19) A play equipment platform that is more than 18 inches above the floor or ground and used by infants or toddlers shall have a protective barrier that is at least 24 inches high.

(20) A play equipment platform that is more than 30 inches above the floor or ground and used by preschoolers shall have a protective barrier that is at least 29 inches high.

(21) A play equipment platform that is more than 48 inches above the floor or ground and used by school-age children shall have a protective barrier that is at least 38 inches high.

(22) There shall be no gap greater than 3-1/2 inches in or under a required protective barrier on a play equipment platform.

(23) Stationary play equipment shall be stable and securely anchored.

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

(25) There shall be no heavy metal swings, such as animal-shaped swings, accessible to children.

(26) There shall be no entrapment hazards on or within the use zone of any piece of stationary play equipment.

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

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

(29) 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.

**R381-60-20. Transportation.**

If transportation services are offered:

(1) For each child being transported, the provider shall have a transportation permission form:

(a) signed by the parent, and

(b) on-site for review by the Department.

(2) Each vehicle used for transporting children shall:

(a) be enclosed with a roof or top,

(b) be equipped with safety restraints,

(c) have a current vehicle registration,

(d) be maintained in a safe and clean condition,

(e) contain a first aid kit, and

(f) contain a body fluid clean up kit.

(3) The safety restraints in each vehicle that transports children shall:

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

(b) be properly installed; and

(c) be in safe condition and working order.

(4) The driver of each vehicle who is transporting children shall:

(a) be at least 18 years old;

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

(c) have with them the written emergency contact information for each child being transported;

(d) ensure that each child being transported is in an individual safety restraint that is used according to Utah law;

(e) ensure that the inside vehicle temperature is between 60-85 degrees Fahrenheit;

(f) never leave a child in the vehicle unattended by an adult;

(g) ensure that children stay seated while the vehicle is moving;

\_\_\_\_\_ (h) never leave the keys in the ignition when not in the driver's seat; and

\_\_\_\_\_ (i) ensure that the vehicle is locked during transport.

\_\_\_\_\_ (5) When the provider walks or uses public transportation to transport children to or from the facility, the provider shall ensure that:

\_\_\_\_\_ (a) each child being transported has a completed transportation permission form signed by their parent,

\_\_\_\_\_ (b) a caregiver goes with the children and actively supervises them,

\_\_\_\_\_ (c) the caregiver-to-child ratio is maintained, and

\_\_\_\_\_ (d) caregivers take each child's written emergency contact information and releases with them.

#### **R381-60-21. Animals.**

\_\_\_\_\_ (1) The provider shall inform parents of the kinds of animals allowed at the facility.

\_\_\_\_\_ (2) There shall be no animal on the premises that:

\_\_\_\_\_ (a) is naturally aggressive;

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

\_\_\_\_\_ (c) has a history of biting even one person.

\_\_\_\_\_ (3) Animals at the facility shall be clean and free of obvious disease or health problems that could adversely affect children.

\_\_\_\_\_ (4) There shall be no animal or animal equipment in food preparation or eating areas.

\_\_\_\_\_ (5) Children younger than 5 years of age shall not assist with the cleaning of animals or animal cages, pens, or equipment.

\_\_\_\_\_ (6) If school-age children help in the cleaning of animals or animal equipment, the children shall wash their hands immediately after cleaning the animal or equipment.

\_\_\_\_\_ (7) Children and staff shall wash their hands immediately after playing with or touching animals, including reptiles and amphibians.

\_\_\_\_\_ (8) Dogs, cats, and ferrets that are housed at the facility shall have current rabies vaccinations.

\_\_\_\_\_ (9) The provider shall keep current animal vaccination records on-site for review by the Department.

#### **R381-60-22. Rest and Sleep.**

\_\_\_\_\_ If sleeping equipment is used for rest and sleep time:

\_\_\_\_\_ (1) A separate crib, cot, mat, or other sleeping equipment shall be used for each child during nap times.

\_\_\_\_\_ (2) Sleeping equipment shall be kept in good repair, including mats and mattresses that shall have smooth, waterproof surfaces.

\_\_\_\_\_ (3) Each crib shall:

\_\_\_\_\_ (a) have a tight-fitting mattress;

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

\_\_\_\_\_ (d) not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child; and

\_\_\_\_\_ (e) meet CPSC standards.

\_\_\_\_\_ (4) When in use, sleeping equipment such as cribs, cots, and mats shall be placed at least 2 feet apart.

\_\_\_\_\_ (5) Sleeping equipment shall not block exits.

\_\_\_\_\_ (6) Sleeping equipment shall be cleaned and sanitized before each use.

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

\_\_\_\_\_ If the provider accepts children who wear diapers:

\_\_\_\_\_ (1) The provider shall post diapering procedures at each diapering station and ensure that they are followed.

\_\_\_\_\_ (2) Caregivers shall ensure that each child's diaper is:

\_\_\_\_\_ (a) checked at least once every 2 hours,

\_\_\_\_\_ (b) promptly changed when wet or soiled, and

\_\_\_\_\_ (c) checked as soon as a sleeping child awakens.

\_\_\_\_\_ (3) The diapering area shall not be located in a food preparation or eating area.

\_\_\_\_\_ (4) Caregivers shall change children's diapers at a diapering station. Diapers shall not be changed on surfaces used for any other purpose.

\_\_\_\_\_ (5) The diapering surface shall be smooth, waterproof, and in good repair.

\_\_\_\_\_ (6) Each diapering station shall be equipped with railings to prevent a child from falling when being diapered.

\_\_\_\_\_ (7) Caregivers shall not leave children unattended on the diapering surface.

\_\_\_\_\_ (8) Caregivers shall clean and sanitize the diapering surface after each diaper change, or use a disposable, waterproof diapering surface that is thrown away after each diaper change.

\_\_\_\_\_ (9) Caregivers shall wash their hands after each diaper change.

\_\_\_\_\_ (10) Caregivers shall place wet and soiled disposable diapers:

\_\_\_\_\_ (a) in a container that has a disposable plastic lining and a tight-fitting lid,

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

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

\_\_\_\_\_ (11) Indoor containers where wet and soiled diapers are placed shall be cleaned and sanitized each day.

\_\_\_\_\_ (12) If cloth diapers are used:

\_\_\_\_\_ (a) they shall not be rinsed at the facility; and

\_\_\_\_\_ (b) they shall be placed directly into a leakproof container that is inaccessible to any child and labeled with the child's name, or placed in a leakproof diapering service container.

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

\_\_\_\_\_ If the provider cares for infants or toddlers:

\_\_\_\_\_ (1) Each awake infant and toddler shall receive positive physical and verbal interaction with a caregiver at least once every 20 minutes.

\_\_\_\_\_ (2) To stimulate their healthy development, the provider shall ensure that infants receive daily interactions with adults; including on-the-ground interaction and closely supervised time spent in the prone position for infants less than 6 months of age.

\_\_\_\_\_ (3) Caregivers shall respond promptly to infants and toddlers who are in emotional distress due to conditions such as hunger, fatigue, a wet or soiled diaper, fear, teething, or illness.

\_\_\_\_\_ (4) For their healthy development, safe toys shall be available for infants and toddlers. There shall be enough toys accessible to each infant and toddler in the group to engage in play.

\_\_\_\_\_ (5) Mobile infants and toddlers shall have freedom of movement in a safe area.

- (6) An awake infant or toddler shall not be confined for more than 30 minutes in any piece of equipment, such as a swing, high chair, crib, playpen, or other similar piece of equipment.
- (7) 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.
- (8) Infants and toddlers shall not have access to objects made of styrofoam.
- (9) Each infant and toddler shall be allowed to eat and sleep on their own schedule.
- (10) Baby food, formula, or breast milk that is brought from home for an individual child's use shall 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 for unprepared powdered formula or dry food.
- (11) If an infant is unable to sit upright and hold their own bottle, a caregiver shall hold the infant during bottle feeding. Bottles shall not be propped.
- (12) The caregiver shall swirl and test warm bottles for temperature before feeding to children.
- (13) Formula and milk, including breast milk, shall be discarded after feeding or within 2 hours of starting a feeding.
- (14) Caregivers shall cut solid foods for infants into pieces no larger than 1/4 inch in diameter, and shall cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.
- (15) Infants shall sleep in equipment designed for sleep such as a crib, bassinet, porta-crib or play pen. An infant shall not be placed to sleep on a mat, cot, pillow, bouncer, swing, car seat, or other similar piece of equipment unless the provider has written permission from the infant's parent.
- (16) Infants shall be placed on their backs for sleeping unless there is documentation from a health care provider requiring a different sleep position.

**KEY:** child care facilities, hourly child care centers  
**Date of Enactment or Last Substantive Amendment:** [~~March 30, 2016~~]**2017**  
**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**  
 (Amendment)  
 DAR FILE NO.: 42020  
 FILED: 08/14/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The child care community, the Child Care Center Licensing Committee, and the Child Care Licensing Program supported the need for a revision of this rule. This rule was written in a very complex format and had many parts that were no longer applicable. Additionally, there were different sets of rules that applied to this provider type and also needed to be rewritten and combined in one single set of rules for clarity and to make it simpler to understand and follow.

**SUMMARY OF THE RULE OR CHANGE:** This rule was rewritten using simpler language and all rules that were not applicable were deleted. The rule sections were reorganized and renamed, and Rule R430-6 (the background screening rule) and Rule R430-1 (the administrative rule) were also rewritten and combined with this rule to have all requirements in one place.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 63G, Chapter 3

- ANTICIPATED COST OR SAVINGS TO:**
- ◆ **THE STATE BUDGET:** Some state agencies operate child care centers. However, the Child Care Licensing Committee does not anticipate any cost or savings as a result of this change.
  - ◆ **LOCAL GOVERNMENTS:** Some local governments operate child care centers. Since the proposed changes do not add any requirements, the Child Care Licensing Committee does not anticipate any costs or savings to child care programs operated by state agencies.
  - ◆ **SMALL BUSINESSES:** Almost all child care centers are small businesses. Since the proposed changes do not add any requirements, the Child Care Licensing Committee does not anticipate any costs or savings to child care programs operated by small business.
  - ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Since the proposed changes do not add any requirements, the Child Care Licensing Committee does not anticipate any 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 Child Care Licensing Committee does not anticipate any compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is not fiscal impact for any of the parties affected by these proposed rule changes because these rules were only rewritten and reorganized in simpler language and no additional requirements were included.

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

HEALTH  
CHILD CARE CENTER LICENSING COMMITTEE  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Office 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 10/02/2017

THIS RULE MAY BECOME EFFECTIVE ON: 10/10/2017

AUTHORIZED BY: Joseph Miner, MD, 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) "Director" means a person who meets the director qualifications of this rule, and who assumes the day-to-day responsibilities for the facility to be in compliance with Child Care Licensing rules.

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

(10) "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.

(11) "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.

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

(13) "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 cannot get to.

(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.

(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 non-accidental 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) "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.

(22) "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.

(23) "Provider" means the licensee or the entity providing child care services.

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

(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 76-5a-2(8).

(27) "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.

(28) "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.

(29) "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 whenever there are children in the outdoor play area.~~
- ~~\_\_\_\_\_ (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	
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 Allowed	9"	Not Allowed	9"	Not Allowed	9"	Not Allowed	6"	6"
Over 7' up to 8'	12"	Not Allowed	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	12"	Not Allowed	6"	6"
Over 9' up to 10'	Not Allowed	Not Allowed	12"	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	Not Allowed	Not Allowed	6"	6"
Over 11' up to 12'	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed	Not Allowed	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 Pivot Point	Engineered Wood Fibers		Double Shredded Wood Chips		Bark Mulch	
4' high or less	6"	6"	6"	6"	6"	6"
Over 4' up to 5'	6"	6"	6"	6"	6"	6"
Over 5' up to 6'	6"	6"	6"	6"	6"	6"
Over 6' up to 7'	9"	6"	6"	6"	9"	9"
Over 7' up to 8'	12"	9"	9"	9"	9"	9"
Over 8' up to 9'	12"	9"	9"	9"	9"	9"
Over 9' up to 10'	12"	9"	9"	9"	9"	9"
Over 10' up to 11'	12"	12"	12"	12"	12"	12"
Over 11'	12"	Not Allowed	Not Allowed	Not Allowed	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, who has completed the Center Director Training class offered by the Department, and who has one of the following educational credentials:~~

~~(a) an associate, 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) as approved by the Department, 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, or their equivalent, as approved by the Utah Child Care Professional Development Institute: 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) Any new Center director must complete the Department's Center Director Training Class no later than 60 working days after assuming director duties.~~

~~(3) All caregivers shall be at least 18 years of age.~~

~~(4) 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.~~

~~(5) Assistant caregivers may be included in caregiver to child ratios, but shall not be left unsupervised with children.~~

~~(6) Assistant caregivers shall meet all of the caregiver requirements under this rule, except the caregiver age requirement of 18 years.~~

~~(7) Whenever there are children at the program, there shall be at least one caregiver present who can demonstrate the English literacy skills needed to care for children and respond to emergencies.~~

~~(8) Each new caregiver, and volunteers who count in the caregiver to child ratio, shall receive at least 2.5 hours of pre-service pre-service training prior to assuming caregiving duties. Pre-service training shall be documented and shall include the following topics:~~

~~(a) job description and duties;~~

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

~~(c) the Department approved 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) 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;~~

~~(h) recognizing the signs of homelessness and available assistance;~~

~~(i) prevention of shaken baby syndrome and abusive head trauma, and coping with crying babies; and~~

~~(j) prevention of sudden infant death syndrome and use of safe sleeping practices.~~

~~(9) 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 Department-approved 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;~~

~~(v) positive guidance;~~

~~(vi) prevention of shaken baby syndrome and abusive head trauma, and coping with crying babies;~~

~~(vii) prevention of sudden infant death syndrome and use of safe sleeping practices; and~~

~~(viii) recognizing the signs of homelessness and available assistance;~~

~~(10) 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 pre-service 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 licensee shall establish, and shall ensure that all caregivers follow, written policies and procedures for the health and safety of each child in care. The licensee shall submit to the Department these policies and procedures for approval on a form provided by Child Care Licensing.~~

~~(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) copy of all covered individuals' background screening cards issued by the Department.~~

~~(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) copy of the current background screening card issued by the Department;~~
- ~~\_\_\_\_\_ (c) a six week record of days and hours worked;~~
- ~~\_\_\_\_\_ (d) pre-service training documentation for caregivers, and for volunteers who count in the caregiver to child ratio;~~
- ~~\_\_\_\_\_ (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 licensee shall submit to the Department a written emergency preparedness and disaster response plan for approval on a form provided by Child Care Licensing.~~
- ~~\_\_\_\_\_ (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, e-cigarettes, e-juice, e-liquids, 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 sent 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 make available 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.]



**R381-70-1. Legal Authority and Purpose**

(1) This rule is enacted and enforced in accordance with Utah Code, Title 26, Chapter 39.

(2) This rule establishes the foundational standards necessary to protect the health and safety of children in out-of-school-time programs and defines the general procedures and requirements to obtain and maintain a license.

**R381-70-2. Definitions**

(1) "Applicant" means a person or business who has applied for a new or a renewal of a license, certificate, or exemption from Child Care Licensing.

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

(3) "Background Finding" means information in a background screening that may result in a denial from Child Care Licensing.

(4) "Background Screening Denial" means that an individual has failed the background screening and is prohibited from being involved with a program licensed by Child Care Licensing.

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

(6) "Body Fluid" means blood, urine, feces, vomit, mucus, and/or saliva.

(7) "Capacity" means the maximum number of children allowed in the program at any given time.

(8) "CCL" means the Child Care Licensing Program in the Department of Health that is delegated with the responsibility to enforce the Utah Child Care Licensing Act.

(9) "Child Care Center Licensing Committee" means the Child Care Center Licensing Committee created in the Utah Child Care Licensing Act.

(10) "Conditional Status" means that the provider is at risk of losing their license because compliance with licensing rules has not been maintained.

(11) "Covered Individual" means any of the following individuals involved with the program:

(a) an owner;

(b) a director;

(c) a member of the governing body;

(d) an employee;

(f) a volunteer, except a parent of a child enrolled in the program; and

(h) anyone who has unsupervised contact with a child in the program.

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

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

(14) "Designated Play Surface" means any accessible elevated surface for standing, walking, crawling, sitting or climbing; or an accessible flat surface at least 2 by 2 inches in size and having an angle less than 30 degrees from horizontal.

(15) "Director" means a person who meets the director qualifications in this rule, and who assumes the day-to-day responsibilities for compliance with Child Care Licensing rules.

(16) "Emotional Abuse" means behavior that could harm a child's emotional development, such as threatening, intimidating,

humiliating, demeaning, criticizing, rejecting, using profane language, and/or using inappropriate physical restraint.

(17) "Entrapment Hazard" means an opening greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing a child's entrapment and strangulation.

(18) "Facility" means a program or the premises approved by the Department and licensed by Child Care Licensing.

(19) "Group" means the children who are assigned to and supervised by one or more staff members.

(20) "Group Size" means the number of children in a group.

(21) "Guest" means an individual who is not a covered individual and is at the facility with the provider's permission.

(22) "Health Care Provider" means a licensed health professional, such as a physician, dentist, nurse practitioner, or physician's assistant.

(23) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence as described in the McKinney-Vento Act, McKinney-Vento Homeless Assistance Act (Title IX, Part A of ESSA)

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

(a) locked, such as in a locked room, cupboard, or drawer;

(b) secured with a safety device;

(c) behind a properly secured safety gate;

(d) located in a cupboard or on a shelf that is at least 48 inches above the floor; or

(e) in a bathroom, locked or secured with a safety device.

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

(26) "Involved with Children" means to do any of the following at or for an out-of-school-time program licensed by Child Care Licensing:

(a) supervise or be assigned to work with children in the program;

(b) volunteer at an out-of-school-time program;

(c) own, operate, direct, or be employed at an out-of-school-time program;

(d) reside at a facility where an out-of-school-time program operates; or

(e) be present at a facility while an out-of-school-time program operates, except for authorized guests or parents who are dropping off a child, picking up a child, or attending a scheduled event at the program's facility.

(27) "License" means a license issued by the Department to provide out-of-school-time program services.

(28) "Licensee" means the legally responsible person or business that holds a valid license from Child Care Licensing.

(29) "LIS Supported Finding" means background screening information from the Licensing Information System (LIS) database for child abuse and neglect, maintained by the Utah Department of Human Services.

(30) "McKinney-Vento Act" means a federal law that requires protections and services for children and youth who are homeless including those with disabilities. McKinney-Vento Homeless Assistance Act (Title IX, Part A of ESSA)

(31) "Over-the-Counter Medication" means medication that can be purchased without a written prescription including herbal remedies, vitamins, and mineral supplements.

(32) "Parent" means the parent or legal guardian of a child in the program.

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

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

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

(36) "Protective Barrier" means a structure such as bars, lattice, or a panel that is around an elevated platform and is intended to prevent accidental or deliberate movement through or access to something.

(37) "Protective Cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of injuries from falls.

(38) "Provider" means the legally responsible person or business that holds a valid license from Child Care Licensing.

(39) "Qualifying Child" means:

(a) a child who is between 5 and 13 years old and is the child of a person other than the provider or a staff member, and

(b) a child with a disability who is between 5 and 18 years old and is the child of a person other than the provider or a staff member.

(40) "Related Child" means a child for whom a provider is the parent, legal guardian, step-parent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.

(41) "Sanitize" means to use a chemical product to remove soil and bacteria from a surface or object.

(42) "School-Age Child" means a child age 5 through 12 years old.

(43) "Services" means the supervision and response to the needs of 5 or more qualifying children:

(a) in the absence of the children's parents,

(b) in a place other than the provider's home or the child's home,

(c) for less than 24 hours a day, and

(d) for direct or indirect compensation.

(44) "Sexual Abuse" means abuse as defined in Utah Code, Title 76-5-404(1).

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

(46) "Staff-to-Child Ratio" means the number of staff responsible for a specific number of children.

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

(a) a sandbox;

(b) a stationary circular tricycle;

(c) a sensory table; or

(d) a playhouse that sits on the ground or floor and has no attached equipment, such as a slide, swing, or climber.

(48) "Strangulation Hazard" means something on which a child's clothes or drawstrings could become caught or something in which a child could become entangled such as:

(a) a protruding bolt end that extends more than 2 threads beyond the face of the nut;

(b) hardware that forms a hook or leaves a gap or space between components such as a protruding S-hook; or

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

(49) "Substitute" means an individual who temporarily assumes the responsibilities to supervise and work with the children when the assigned staff member is not present.

(50) "Unrelated Child" means a child who is not a "related child" as defined in R381-70-2(40).

(51) "Unsupervised Contact" means being with, caring for, communicating with, or touching a child in the absence of a staff member who is at least 18 years old and has passed a Child Care Licensing background screening.

(52) "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.

(53) "Volunteer" means an individual who receives no form of direct or indirect compensation for their service.

(54) "Working Days" means the days of the week the Department is open for business.

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

(1) A person or persons shall be licensed as an out-of-school-time program if they provide services:

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

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

(c) for 5 or more qualifying children;

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

(e) on an ongoing basis, on 3 or more days a week and for 30 or more days in a calendar year;

(f) either for 2 or more hours per day on days when school is in session for the child receiving services and 4 or more hours per day on days when school is not in session for the children receiving services, or the provider offers services for 4 or more hours per day on days when school is not in session for the children receiving services:

(g) to children who are at least 5 years of age; and

(h) for direct or indirect compensation.

(2) The Department may not license, nor is a license required for:

(a) a person who serves related children only, or

(b) a person who provides services on a sporadic basis only.

(3) According to Foster Care Services rule R501-12-4(8)(f), a provider may not be licensed to provide child services in a facility that is also licensed to offer foster or respite care services, or another licensed or certified human services program.

### **R381-70-4. License Application, Renewal, Changes, and Variances**

(1) An applicant for a new license shall submit to the Department:

(a) an online application;

(b) a copy of a current local fire clearance or a statement from the local fire authority that a fire inspection is not required;

(c) a copy of a current local health department kitchen clearance for a facility providing food service or a statement from the local health department that a kitchen inspection is not required;

(d) a copy of a current local business license or a statement from the city that a business license is not required;

(e) a copy of the educational credentials of the person who will be the director as required in R381-70-7(4);

(f) a copy of a completed Department health and safety plan;

(g) CCL background screenings for all covered individuals as required in R381-70-8;

(h) a current copy of the Department's new provider training certificate of attendance; and

(i) all required fees, which are nonrefundable.

(2) The applicant shall pass a Department's inspection of the facility before a new license or a renewal is issued.

(3) If the local fire authority states that a fire inspection is not required, a Department's CCL inspection for a new license or a renewal of a license shall include compliance with the following:

(a) address numbers and/or letters shall be readable from the street;

(b) address numbers and/or letters shall be at least 4 inches in height and 1/2 inch thick;

(c) exit doors shall operate properly and shall be well maintained;

(d) obstructions in exits, aisles, corridors, and stairways shall be removed;

(e) items stored under exit stairs shall be removed;

(f) exit doors shall be unlocked from the inside during business hours;

(g) exits shall be clearly identified;

(h) there shall be unobstructed fire extinguishers that are of an X minimum rate and appropriate to the type of hazard, currently charged and serviced, and mounted not more than 5 feet above the floor;

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

(j) boiler, mechanical, and electrical panel rooms shall not be used for storage.

(4) If the provider serves food and the local health department states that a kitchen inspection is not required, a Department's CCL inspection for a new license or a renewal of a license shall include compliance with the following:

(a) the refrigerator shall be clean, in good repair, and working at or below 41 degrees Fahrenheit;

(b) there shall be a working thermometer in the refrigerator;

(c) there shall be a working stem thermometer available to check cook and hot hold temperatures;

(d) cooks shall have a current food handler's permit available on-site for review by the Department;

(e) cooks shall use hair restraints and wear clean outer clothing;

(f) according to Food Code 2-103-11, only necessary staff shall be present in the kitchen;

(g) reusable food holders, utensils, and food preparation surfaces shall be washed, rinsed, and sanitized with an approved sanitizer before each use;

(h) chemicals shall be stored away from food and food service items;

(i) food shall be properly stored, kept to the proper temperature, and in good condition; and

(j) there shall be a working handwashing sink in the kitchen and handwashing instructions posted by the sink.

(5) If the applicant does not complete the application process within 6 months of first submitting any portion of the application, the Department may deny the application and to be licensed, the applicant shall reapply. This includes resubmitting all required documentation, repaying licensing fees, and passing another inspection of the facility.

(6) The Department may deny an application for a license if, within the 5 years preceding the application date, the applicant held a license or a certificate that was:

(a) closed under an immediate closure;

(b) revoked;

(c) closed as a result of a settlement agreement resulting from a notice of intent to revoke, a notice of revocation, or a notice of immediate closure; or

(d) voluntarily closed after an inspection of the facility found rule violations that would have resulted in a notice of intent to revoke or a notice of revocation had the provider not closed voluntarily; or

(e) voluntarily closed having unpaid fees or civil money penalties issued by the Department.

(7) Each license expires at midnight on the last day of the month shown on the license, unless the license was previously revoked by the Department, or voluntarily closed by the provider.

(8) Within 30 to 90 days before a current license expires, the provider shall submit for renewal:

(a) an online renewal request,

(b) applicable renewal fees,

(c) any previous unpaid fees,

(d) a copy of a current business license,

(e) a copy of a current fire inspection report, and

(f) a copy of a current kitchen inspection report.

(9) A provider who fails to renew their license by the expiration date may have an additional 30 days to complete the renewal process if they pay a late fee.

(10) The Department may not renew a license for a provider who is no longer providing services.

(11) The provider shall submit a complete application for a new license at least 30 days before any of the following changes occur:

(a) a change of the facility's location, or

(b) a change that transfers 50 percent or more ownership or controlling interest to a new individual or entity.

(12) The provider shall submit a complete application to amend an existing license at least 30 days before any of the following changes:

(a) an increase or decrease of licensed capacity, including any change to the amount of usable indoor or outdoor space where services are provided;

(b) a change in the name of the program;

(c) a change in the regulation category of the program;

(d) a change in the name of the provider;

(e) an addition or loss of a director; or

(f) a change in ownership that does not require a new license.

(13) The Department may amend a license after verifying that the applicant is in compliance with all applicable rules and

required fees have been paid. The expiration date of the amended license remains the same as the previous license.

(14) A license is not assignable or transferable and shall only be amended by the Department.

(15) If an applicant or provider cannot comply with a rule but can meet the intent of the rule in another way, they may apply for a variance to that rule by submitting a request to the Department.

(16) The Department may:

(a) require additional information before acting on the variance request, and

(b) impose health and safety requirements as a condition of granting a variance.

(17) The provider shall comply with the existing rule until a variance is approved.

(18) If a variance is approved, the provider shall keep a copy of the written approval on-site for review by parents and the Department.

(19) The Department may grant variances for up to 12 months.

(20) The Department may revoke a variance if:

(a) the provider is not meeting the intent of the rule as stated in their approved variance;

(b) the provider fails to comply with the conditions of the variance; or

(c) a change in statute, rule, or case law affects the basis for the variance.

#### **R381-70-5. Rule Violations and Penalties**

(1) The Department may place a program's license on a conditional status for the following causes:

(a) chronic, ongoing noncompliance with rules;

(b) unpaid fees; or

(c) a serious rule violation that places children's health or safety in immediate jeopardy.

(2) The Department shall establish the length of the conditional status and set the conditions that the provider shall satisfy to remove the conditional status.

(3) The Department may increase monitoring of the program that is on conditional status to verify compliance with rules.

(4) The Department may deny or revoke a license if the provider:

(a) fails to meet the conditions of a license on conditional status;

(b) violates the Child Care Licensing Act;

(c) provides false or misleading information to the Department;

(d) misrepresents information by intentionally altering a license or any other document issued by the Department;

(e) refuses to allow authorized representatives of the Department access to the facility to ensure compliance with rules;

(f) refuses to submit or make available to the Department any written documentation required to verify compliance with rules;

(g) commits a serious rule violation that results in death or serious harm to a child, or that places a child at risk of death or serious harm; or

(h) has committed an illegal act that would exclude a person from having a license.

(5) Within 10 working days of receipt of a revocation notice, the provider shall submit to the Department the names and mailing addresses of the parents of each enrolled child so the Department can notify the parents of the revocation.

(6) The Department may order the immediate closure of a facility if conditions create a clear and present danger to any child and may require immediate action to protect their health or safety.

(7) Upon receipt of an immediate closure notice, the provider shall give the Department the names and mailing addresses of the parents of each enrolled child so the Department can notify the parents of the immediate closure.

(8) If there is a severe injury or the death of a child who is participating in the program, the Department may order the provider to suspend services and/or prohibit new enrollments, pending a review by the Child Fatality Review Committee or a determination of the probable cause of death or injury by a medical professional.

(9) If a person is providing out-of-school-time services for more than 4 unrelated children without the appropriate license, the Department may:

(a) issue a cease and desist order, or

(b) allow the person to continue operation if:

(i) the person was unaware of the need for a license,

(ii) conditions do not create a clear and present danger to the children being served, and

(iii) the person agrees to apply for the appropriate license within 30 calendar days of notification by the Department.

(10) If a person providing out-of-school-time program services without the appropriate license agrees to apply for a license but does not submit an application and all required application documents within 30 days, the Department shall issue a cease and desist order.

(11) A violation of any rule is punishable by an administrative civil money penalty of up to \$5,000 per day as provided in Utah Code, Section 26-39-601.

(12) Assessment of any civil money penalty does not prevent the Department from also taking action to deny, place on conditional status, revoke, immediately close, or refuse to renew a license

(13) Assessment of any administrative civil money penalty under this section does not prevent court-ordered or other equitable remedies.

(14) The Department may deny an application or revoke a license for failure to pay any required fees, including fees for applications, late fees, returned checks, license changes, additional inspections, conditional monitoring inspections, background screenings, civil money penalties, and other fees assessed by the Department.

(15) An applicant or provider may appeal any Department decision within 30 days of being informed of the decision.

#### **R381-70-6. Administration and Children's Records**

(1) The provider shall:

(a) be at least 21 years of age,

(b) pass a CCL background screening, and

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

(2) If the owner is not a sole proprietor, the business entity shall submit to the Department the name(s) and contact information of

the individual(s) who shall legally represent them and who shall comply with the requirements stated in R381-70-6(1).

(3) The provider shall not engage in or allow conduct that endangers children being served; or is contrary to the health, morals, welfare, and safety of the public.

(4) The provider shall have knowledge of and comply with all federal, state, and local laws, ordinances, and rules, and shall be responsible for the operation and management of an out-of-school-time program.

(5) The provider shall comply with licensing rules at all times when a qualifying child is present.

(6) The provider shall post the original license on the facility premises in a place readily visible and accessible to the public.

(7) The provider shall post a copy of the Department's Parent Guide at the facility for parent review during business hours.

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

(9) The provider shall establish, follow, and ensure that all staff and volunteers follow a written health and safety plan that is:

(a) completed on the Department's required form;

(b) submitted to the Department for initial approval and any time changes are made to the plan;

(c) reviewed and updated as needed;

(d) signed and dated at least annually; and

(e) available for review by parents, staff, and the Department during business hours.

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

(11) The admission and health assessment form shall include the following information:

(a) child's name;

(b) child's date of birth;

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

(d) names of people authorized by the parent to pick up the child;

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

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

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

(h) any known allergies of the child;

(i) any known food sensitivities of the child;

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

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

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

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

(12) The admission and health assessment form shall:

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

(b) kept on-site for review by the Department.

(13) Each child's information shall be kept confidential and shall not be released without written parental permission.

### **R381-70-7. Personnel and Training Requirements**

(1) The provider shall train and supervise staff and volunteers to ensure that they are qualified to:

(a) meet the needs of the children as required by rule, and

(b) be in compliance with all licensing rules.

(2) The provider shall ensure that the program has a qualified director as required by licensing rules.

(3) The director shall:

(a) be at least 21 years of age;

(b) pass a CCL background screening;

(c) receive at least 2.5 hours of preservice training before beginning job duties;

(d) complete the new director training offered by the Department within 60 working days of assuming director duties;

(e) have knowledge of and follow all applicable laws and rules; and

(f) complete at least 10 hours of training each year, based on the facility's license date.

(4) New directors shall have one of the following educational credentials:

(a) any bachelor's or higher education degree, and at least 60 clock hours of approved Utah Early Childhood Career Ladder courses in child development, social/emotional development, and the child care environment; or 60 clock hours of equivalent training as approved by the Department;

(b) at least 12 college credit hours of child development courses, elementary education, or related field;

(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 equivalent credential as approved by the Department;

(d) at least a Level 9 from the Utah Early Childhood Career Ladder system; or

(e) a National Administrator Credential (NAC) and at least 60 clock hours of approved Utah Early Childhood Career Ladder courses in child development, social/emotional development, and the child care environment; or 60 clock hours of equivalent training as approved by the Department.

(5) The director shall be on duty at the facility for at least 50% of the time the program is open for business and have sufficient freedom from other responsibilities to manage the program and respond to emergencies.

(6) The director shall arrange for a designee who shall have authority to act on behalf of the director in the director's absence.

(7) The director designee shall:

(a) be at least 21 years of age;

(b) pass a CCL background screening;

(c) receive at least 2.5 hours of preservice training before beginning job duties;

(d) have knowledge of and follow all applicable laws and rules; and

(e) complete at least 10 hours of training each year, based on the facility's license date.

(8) The director or the director designee shall be present at the facility whenever the program is open for business.

\_\_\_\_\_ (9) Staff working with the children shall:

\_\_\_\_\_ (a) be at least 16 years old;

\_\_\_\_\_ (b) pass a CCL background screening;

\_\_\_\_\_ (c) receive at least 2.5 hours of preservice training before working with children;

\_\_\_\_\_ (d) have knowledge of and follow all applicable laws and rules; and

\_\_\_\_\_ (e) complete at least 10 hours of training each year, based on the facility's license date.

\_\_\_\_\_ (10) Substitutes shall:

\_\_\_\_\_ (a) be at least 18 years old;

\_\_\_\_\_ (b) pass a CCL background screening;

\_\_\_\_\_ (c) be capable of providing out-of-school-time program services, including supervising children, and handling emergencies in the staff member's absence;

\_\_\_\_\_ (d) receive at least 2.5 hours of preservice training before working with children; and

\_\_\_\_\_ (e) complete at least 1/2 hour of child related training for each month they work 40 hours or more.

\_\_\_\_\_ (11) All other staff such as drivers, cooks, and clerks shall:

\_\_\_\_\_ (a) pass a CCL background screening.

\_\_\_\_\_ (b) receive at least 2.5 hours of preservice training before beginning job duties, and

\_\_\_\_\_ (c) have knowledge of and follow all applicable laws and rules.

\_\_\_\_\_ (12) Volunteers shall:

\_\_\_\_\_ (a) pass a CCL background screening, and

\_\_\_\_\_ (b) not have unsupervised contact with any child in the program if the volunteer is younger than 18 years of age.

\_\_\_\_\_ (13) Guests:

\_\_\_\_\_ (a) shall not have unsupervised contact with any child in the program.

\_\_\_\_\_ (b) shall wear a guest nametag, and

\_\_\_\_\_ (c) are not required to pass a CCL background screening.

\_\_\_\_\_ (14) Student interns who are registered and participating in a high school or college child care course:

\_\_\_\_\_ (a) are not required to pass a CCL background screening,

\_\_\_\_\_ (b) shall not have unsupervised contact with any child in the program, and

\_\_\_\_\_ (c) shall wear a guest nametag.

\_\_\_\_\_ (15) Parents of children enrolled in the program:

\_\_\_\_\_ (a) shall not have unsupervised contact with any child in the program except their own, and

\_\_\_\_\_ (b) do not need a CCL background screening unless involved with children in the program.

\_\_\_\_\_ (16) Household members who are:

\_\_\_\_\_ (a) 12 to 17 years old shall pass a CCL background screening;

\_\_\_\_\_ (b) 18 years of age or older shall pass a CCL background screening that includes fingerprints; and

\_\_\_\_\_ (c) younger than 18 years of age shall not have unsupervised contact with any child in the program including during offsite activities and transportation.

\_\_\_\_\_ (17) Individuals who provide IEP or IFSP services such as physical, occupational, or speech therapists:

\_\_\_\_\_ (a) are not required to have a CCL background screening as long as the child's parent has given permission for services to take place at the facility; and

\_\_\_\_\_ (b) shall provide proper identification before having access to the facility or a child at the facility.

\_\_\_\_\_ (18) Members from law enforcement or from Child Protective Services:

\_\_\_\_\_ (a) are not required to have a CCL background screening, and

\_\_\_\_\_ (b) shall provide proper identification before having access to the facility or a child at the facility.

\_\_\_\_\_ (19) Preservice training shall include the following:

\_\_\_\_\_ (a) job description and duties;

\_\_\_\_\_ (b) current Department rule sections R381-70-7 through 21;

\_\_\_\_\_ (c) the Department-approved health and safety plan that includes preparing for and responding to emergencies;

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

\_\_\_\_\_ (e) recognizing the signs of homelessness and available assistance;

\_\_\_\_\_ (f) a review of the information in each child's health assessment in the staff member's assigned group; and

\_\_\_\_\_ (g) an introduction and orientation to the children being served.

\_\_\_\_\_ (20) Documentation of each individual's preservice training shall be kept on-site for review by the Department and include the following:

\_\_\_\_\_ (a) training topics,

\_\_\_\_\_ (b) date of the training, and

\_\_\_\_\_ (c) total hours or minutes of training.

\_\_\_\_\_ (21) Annual training shall include the following topics:

\_\_\_\_\_ (a) current Department rule sections R381-70-7 through 21;

\_\_\_\_\_ (b) the Department-approved health and safety plan that includes preparing for and responding to emergencies;

\_\_\_\_\_ (c) the prevention, signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;

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

\_\_\_\_\_ (e) positive guidance and interactions with children; and

\_\_\_\_\_ (f) recognizing the signs of homelessness and available assistance.

\_\_\_\_\_ (22) At least half of the annual training hours shall be face-to-face instruction.

\_\_\_\_\_ (23) Individuals who are required to receive annual training and who begin employment partway through the facility's license year shall complete a proportionate number of training hours including the face-to-face instruction.

\_\_\_\_\_ (24) Documentation of each individual's annual training shall be kept on-site for review by the Department and include the following:

\_\_\_\_\_ (a) training topic,

\_\_\_\_\_ (b) date of the training,

\_\_\_\_\_ (c) whether the training was face-to-face or non-face-to-face instruction,

\_\_\_\_\_ (d) name of the person or organization that presented the training, and

\_\_\_\_\_ (e) total hours or minutes of training.

\_\_\_\_\_ (25) Whenever there are children at the facility, there shall be at least one staff member present who can demonstrate English.

literacy skills needed to work with the children and respond to emergencies.

(26) At least one staff member with a current Red Cross, American Heart Association, or equivalent first aid and infant/child CPR certification shall be present when children are receiving services:

- (a) at the facility,
- (b) in each vehicle transporting children, and
- (c) at each offsite activity.

(27) CPR certification shall include hands-on testing.

(28) The following records for each covered individual shall be kept on-site for review by the Department:

- (a) the date of initial employment or association with the program;
- (b) a copy of the current background screening card issued by the Department;
- (c) a current first aid and CPR certification, if required in rule; and
- (d) a six-week record of the times worked each day.

### **R381-70-8. Background Screenings.**

(1) The provider shall ensure that an online CCL background screening form is submitted within 10 working days from when:

- (a) a new covered individual becomes involved with the program,
- (b) a new covered individual age 12 years or older begins residing in the facility, and
- (c) a child who resides in the facility turns 12 years old.

(2) Unless an exception is granted in rule, the provider shall ensure that a CCL background screening for all individuals age 18 or older includes fingerprints and fingerprints fees.

(3) The fingerprints shall be prepared by a local law enforcement agency or an agency approved by local law enforcement.

(4) If fingerprints are submitted through LiveScan (electronically), the agency taking the fingerprints shall follow the Department's guidelines.

(5) Fingerprints are not required if:

- (a) the covered individual has resided in Utah continuously for the past 5 years, or since the individual's 18th birthday and will only be involved with a program that was licensed or certified prior to 1 July 2013; or
- (b) the covered individual has previously submitted fingerprints to the Department under this section for a national criminal history record check and has resided in Utah continuously since that time.

(6) Background screenings are valid for 1 year and shall be renewed before the last day of the month listed on the covered individual's background screening card.

(7) At least 2 weeks before the end of the month that is written on a covered individual's background screening card, the provider shall:

- (a) have the individual submit an online CCL background screening form,
- (b) authorize the individual's background screening form, and
- (c) pay all required fees.

(8) Regardless of any exception in rule, if an in-state criminal background screening indicates that a covered individual age 18 or older has a background finding, the Department may require that

individual to submit fingerprints and fees in order for the Department to conduct a national criminal background screening for that individual.

(9) The following background findings may deny a covered individual from being involved with children:

- (a) LIS supported findings,
- (b) the individual's name appears on the Utah or national sex offender registry,
- (c) any felony convictions,
- (d) any Misdemeanor A convictions, or
- (e) Misdemeanor B and C convictions for the reasons listed in R381-70-8(10).

(10) The following convictions, regardless of severity, may result in a background screening denial:

- (a) unlawful sale or furnishing alcohol to minors;
- (b) sexual enticing of a minor;
- (c) cruelty to animals, including dogfighting;
- (d) bestiality;
- (e) lewdness, including lewdness involving a child;
- (f) voyeurism;
- (g) providing dangerous weapons to a minor;
- (h) a parent providing a firearm to a violent minor;
- (i) a parent knowing of a minor's possession of a dangerous weapon;
- (j) sales of firearms to juveniles;
- (k) pornographic material or performance;
- (l) sexual solicitation;
- (m) prostitution and related crimes;
- (n) contributing to the delinquency of a minor;
- (o) any crime against a person;
- (p) a sexual exploitation act;
- (q) leaving a child unattended in a vehicle; and
- (r) driving under the influence (DUI) while a child is present in the vehicle.

(11) A covered individual with a Class A misdemeanor background finding not listed in R381-70-8(10) may be involved with children when:

- (a) 10 or more years have passed since the Class A misdemeanor offense, and
- (b) there is no other conviction for the individual in the past 10 years.

(12) A covered individual with a Class A misdemeanor background finding not listed in R381-70-8(10) may be involved with children for up to 6 months if:

- (a) 5 to 9 years have passed since the offense,
- (b) there is no other conviction since the Class A misdemeanor offense,

(c) the individual provides to the Department documentation of an active petition for expungement, and

(d) the provider ensures that the individual does not have unsupervised contact with any child in the program.

(13) If a petition for expungement is denied, the covered individual shall no longer be involved with children.

(14) A covered individual shall not be denied if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred 10 or more years before the CCL background screening was conducted.

(15) The Department may rely on the criminal background screening findings as conclusive evidence of the arrest warrant, arrest,

charge, or conviction; and the Department may revoke, suspend, or deny a license or employment based on that evidence.

(16) If the provider has a background screening denial, the Department may suspend or deny their license until the reason for the denial is resolved.

(17) If a covered individual has a background screening denial, the Department may prohibit that individual from being employed by the program or residing at the facility until the reason for the denial is resolved.

(18) If a covered individual is denied a license or employment based upon the criminal background screening and disagrees with the information provided by the Department of Public Safety, the covered individual may appeal the information as provided in Utah Code, Sections 77-18-10 through 77-18-14 and 77-18a-1.

(19) If a covered individual disagrees with a supported finding on the Department of Human Services Licensing Information System (LIS):

(a) the individual cannot appeal the supported finding to the Department of Health; and

(b) the covered individual may appeal the finding to the Department of Human Services and follow the process established by the Department of Human Services.

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

(21) The Executive Director of the Department of Health may overturn a background screening denial under the following conditions:

(a) the background finding is not a felony, and

(b) the Executive Director determines that the nature of the background finding or mitigating circumstances do not pose a risk to children.

### **R381-70-9. Facility.**

(1) There shall be at least 35 square feet of indoor space for each child receiving services, including the provider's and employees' children.

(2) 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 children, or

(c) to store classroom materials.

(3) The following areas are not included when measuring indoor space for children's use:

(a) bathrooms,

(b) closets and staff lockers,

(c) hallways,

(d) lobbies and entryways,

(e) kitchens, and

(f) staff offices.

(4) The maximum allowed capacity for a facility may be limited by local ordinances.

(5) The number of children being served at any given time shall not exceed the capacity identified on the license.

(6) The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint is tested for lead. If lead-based paint is found, the provider shall contact their local health department within 5 working days and follow required procedures for remediation of the lead hazard.

(7) Each room and indoor area that is used by children shall be ventilated by mechanical ventilation, or by windows that open and have screens.

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

(9) All rooms and areas that are used by children shall have adequate light intensity for the safety of the children and the type of activity being conducted.

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

(11) There shall be a working telephone at the facility, in each vehicle while transporting children, and during offsite activities.

(12) Bathrooms that provide privacy shall be available for use by the children.

(13) There shall be at least 2 working toilets and 2 working handwashing sinks accessible to the children.

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

(15) Hand sanitizer shall be available to children if there is not a handwashing sink in the room.

(16) There shall be an outdoor area that is safely accessible to children.

(17) The outdoor area shall have at least 40 square feet of space for each child using the area at one time.

(18) The total square footage of the outdoor area shall accommodate at least one-third of the enrolled children at one time or shall be at least 1600 square feet.

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

(20) Whenever there are children in the outdoor area, there shall be shade available to protect them from excessive sun and heat.

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

(a) the provider shall meet applicable state and local laws and ordinances related to the operation of a swimming pool and maintain the pool in a safe manner; and

(b) when not in use, the pool shall be enclosed within at least a 4-foot-high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises, or covered with an approved enclosure that meets the ASTM F1346 standard.

(22) The provider shall maintain buildings and outdoor areas in good repair and safe condition including:

(a) ceilings, walls, and floor coverings;

(b) lighting, bathroom, and other fixtures;

(c) draperies, blinds, and other window coverings;

(d) indoor and outdoor play equipment;

(e) furniture, toys, and materials accessible to the children; and

(f) entrances, exits, steps, and walkways including keeping them free of ice, snow, and other hazards.



(23) Accessible raised decks or balconies that are 5 feet or higher, and open basement stairwells that are 5 feet or deeper shall have protective barriers that are at least 3 feet high.

(24) If the facility is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, the entire facility shall be inspected and covered individuals in the facility shall comply with all rules, except when all of the following conditions are met:

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

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

(c) there is no shared access to the outdoor area used for the program, or a qualified staff member is present when children are using a shared outdoor area of the facility.

#### **R381-70-10. Ratios and Group Size.**

(1) The provider shall maintain the staff-to-child ratio of at least one staff member for every 20 children.

(2) The provider shall not exceed the maximum group size of 40 children per group.

(3) There shall be at least 2 staff members present when there are more than 8 children on the premises.

(4) The provider's or an employee's child is not counted in the staff-to-child ratio when the parent of the child is working at the facility, but the child is counted in the group size.

(5) Staff who are 16 or 17 years old may be included in the staff-to-child ratio, but shall not have unsupervised contact with any child being served.

(6) Volunteers may be included in the staff-to-child ratio if they:

(a) are at least 16 years old.

(b) receive at least 2.5 hours of preservice training before counting in the staff-to-child ratio, and

(c) complete at least 1 hour of child related training for each month they volunteer 40 hours or more.

(7) Student interns who are registered in a high school or college child care course may count in the staff-to-child ratio when requirements in R381-70-7(14)(a)-(c) are met.

(8) Guests shall not count in staff-to-child ratios.

#### **R381-70-11. Child Supervision and Security.**

(1) The provider shall ensure that staff provide and maintain active supervision of each child at all times.

(2) Active supervision shall include:

(a) staff shall be able to hear the children and be close enough to intervene.

(b) staff shall know the number of children in their assigned group at all times;

(c) staff's attention shall be focused on the children and not on staff's personal interests;

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

(e) staff shall position themselves so all children in their assigned group are actively supervised.

(3) Whenever a child is participating in program services, the child's parent shall have access to their child and the areas used to serve their child.

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

(a) each child is signed in and out;

(b) only parents or persons with written authorization from the parent may sign out a child;

(c) photo identification is required if the individual signing the child in or out is unknown to the provider;

(d) persons signing children in and out use identifiers, such as a signature, initials, or electronic code;

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

(f) there is written permission from their parents if children sign themselves in and out.

(5) In an emergency, program staff shall accept the parent's verbal authorization to release a child when the staff can confirm the identity of:

(a) the person giving verbal authorization, and

(b) the person picking up the child.

(6) A six-week record of each child's daily attendance, including sign-in and sign-out records, shall be kept on-site for review by the Department.

#### **R381-70-12. Child Guidance and Interaction.**

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

(2) The provider shall inform parents, children, and those who interact with the children of the program's behavioral expectations and how any misbehavior will be handled.

(3) Individuals who interact with the children shall guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.

(4) Staff shall use gentle, passive restraint with children only when it is needed to stop children from injuring themselves or others, or from destroying property.

(5) Interactions with the children shall not include any of the following:

(a) any form of corporal punishment or any action that produces physical pain or discomfort such as hitting, spanking, shaking, biting, or pinching;

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

(c) shouting at children;

(d) any form of emotional abuse;

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

(f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.

(6) Any person who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in Utah Code Section 62A-4a-403 and Section 62A-4a-411.

#### **R381-70-13. Child Safety and Injury Prevention.**

(1) The building, outdoor area, toys, and equipment shall be used in a safe manner and as intended by the manufacturer to prevent injury to children.

(2) Harmful objects and hazards, such as the following, shall be inaccessible to children:

(a) poisonous and harmful plants;

(b) razors and other similar blades;

(c) strangulation hazards such as ropes, cords, chains, and wires attached to a structure and long enough to encircle a child's neck;

(d) tripping hazards such as unsecured flooring, rugs with curled edges, or cords in walkways;

(e) objects blocking the exits; and

(f) standing water that measures 2 inches or deeper and 5 by 5 inches or greater in diameter.

(3) Toxic or hazardous chemicals such as insecticides, lawn products, and flammable materials shall be:

(a) inaccessible to children,

(b) used according to manufacturer instructions, and

(c) stored in containers labeled with their contents.

(4) Items and substances that could burn a child or start a fire shall be inaccessible, such as:

(a) matches or cigarette lighters;

(b) open flames;

(c) hot wax or other substances; and

(d) when in use, portable space heaters, wood burning stoves, and fireplaces of all types.

(5) Children shall be protected from items that cause electrical shock such as live electrical wires.

(6) Unless used and stored in compliance with the Utah Concealed Weapons Act or as otherwise allowed by law, firearms such as guns, muzzles loaders, rifles, shotguns, hand guns, pistols, and automatic guns shall:

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

(b) stored unloaded and separate from ammunition.

(7) Weapons such as paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace shall be inaccessible to children.

(8) Alcohol, illegal substances, and sexually explicit material shall be inaccessible, and shall not be used on the premises, during offsite activities, or in program vehicles any time a child is present.

(9) An outdoor source of drinking water, such as individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain shall be available to each child whenever the outside temperature is 75 degrees or higher.

(10) Areas accessible to children shall be free of heavy or unstable objects that children could pull down on themselves, such as furniture, unsecured televisions, and standing ladders.

(11) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.

(12) In compliance with the Utah Indoor Clean Air Act, tobacco, e-cigarettes, e-juice, e-liquids, and similar products shall be inaccessible and not used:

(a) in the facility or any other building where a child is being served,

(b) in any vehicle that is transporting a child in the program,

(c) within 25 feet of any entrance to the facility or other building occupied by a child being served, or

(d) in any outdoor area or within 25 feet of any outdoor area occupied by a child being served.

#### **R381-70-14. Emergency Preparedness and Response.**

(1) The provider shall post the facility's street address and emergency numbers, including ambulance, fire, police, and poison

control, near each telephone in the facility or in an area clearly visible to anyone needing the information.

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

(3) The provider shall conduct fire evacuation drills monthly. Drills shall include a complete exit of all children, staff, and volunteers from the building.

(4) The provider shall document each fire drill, 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.

(5) The provider shall conduct drills for disasters other than fires at least once every 6 months.

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

(a) the type of disaster, such as earthquake, flood, prolonged power or water outage, or 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.

(7) The provider shall vary the days and times on which fire and other disaster drills are held.

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

(9) In case of an emergency or disaster, the provider and employees shall follow procedures as outlined in the program's health and safety plan.

(10) The provider shall give parents a written report of every incident, accident, or injury involving their child:

(a) The staff involved, the program director, and the person picking up the child shall sign the report on the day of occurrence; or

(b) If children sign themselves out of the program, a copy of the report shall be sent to the parent on the day following the occurrence.

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

(12) 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:

(a) emergency personnel shall be called immediately;

(b) after emergency personnel are called, then the parent shall be contacted; and

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

(13) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall:

(a) submit a completed accident report form to the Department within the next business day of the incident; or

(b) contact the Department within the next business day, and submit a completed accident report form within 5 business days of the incident.

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

**R381-70-15. Health and Infection Control.**

(1) The building, furnishings, equipment, and outdoor area shall be kept clean and sanitary including:

(a) ceilings, walls, and flooring shall be clean and free of spills, dirt, and grime;

(b) areas and equipment used for the storage, preparation, and service of food shall be clean and sanitary;

(c) surfaces used by children shall be free of rotting food or a build-up of food;

(d) the building and grounds shall be free of a build-up of litter, trash, and garbage; and

(e) the facility shall be free of animal feces.

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

(3) Fabric toys and items such as stuffed animals, cloth dolls, pillows, and dress-up clothes shall be machine washable and washed weekly, and as needed.

(4) Water play tables or tubs shall be cleaned and sanitized daily, if used by the children.

(5) Bathroom surfaces including toilets, sinks, faucets, and counters shall be cleaned and sanitized each day.

(6) Toilet paper shall be accessible to children and kept in a dispenser.

(7) The provider shall post handwashing procedures that are readily visible from each handwashing sink and shall ensure that the procedures are followed.

(8) Staff and volunteers shall wash their hands thoroughly with liquid soap and running water at required times including:

(a) before handling or preparing food,

(b) before and after eating meals and snacks,

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

(d) after contact with a body fluid,

(e) when coming in from outdoors, and

(f) after cleaning up or taking out garbage.

(9) Staff shall teach children how to wash their hands thoroughly and shall oversee handwashing whenever possible.

(10) The provider shall ensure that children wash their hands thoroughly with liquid soap and running water at required times including:

(a) before and after eating meals and snacks,

(b) after using the toilet,

(c) after contact with a body fluid,

(d) before using a water play table or tub, and

(e) when coming in from outdoors.

(11) Only single-use towels from a covered dispenser or an electric hand dryer may be used to dry hands.

(12) Personal hygiene items, such as toothbrushes, combs, and hair accessories, shall not be shared and shall be stored so they do not touch each other, or they shall be sanitized between each use.

(13) A child's clothing shall be promptly changed if the child has a toileting accident.

(14) Children's clothing that is wet or soiled from a body fluid shall:

(a) not be rinsed or washed at the facility,

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

(c) be returned to the parent.

(15) Staff shall use a portable body fluid cleanup kit for cleaning up body fluid spills. The kit shall be:

(a) in a place easily accessed by staff, and

(b) restocked as needed.

(16) Staff shall take precautions when cleaning floors, furniture, and other surfaces contaminated by blood, urine, feces, or vomit. Except for toileting accidents, staff shall:

(a) wear waterproof gloves;

(b) clean the surface using a detergent solution;

(c) rinse the surface with clean water;

(d) sanitize the surface;

(e) throw away in a leakproof plastic bag the disposable materials, such as paper towels, that were used to clean up the body fluid;

(f) wash and sanitize any nondisposable materials used to clean up the body fluid, such as cleaning cloths, mops, or reusable rubber gloves, before reusing them; and

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

(17) A child who is ill with an infectious disease may not be present at the facility except when the child shows signs of illness after arriving at the program.

(18) When a child becomes ill while at the program:

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

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

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

(20) The provider shall post a notice at the facility when any staff member or child has an infectious disease or parasite. The notice shall:

(a) not disclose any personal identifiable information,

(b) be posted in a conspicuous place where it can be seen by all parents,

(c) be posted and dated on the same day that the disease or parasite is discovered, and

(d) remain posted for at least 5 days.

**R381-70-16. Food and Nutrition.**

(1) On days when services are provided for 3 or more hours, the provider shall ensure that each child is offered a meal or snack at least once every 3 hours.

(2) When food for children's meals and/or snacks is supplied by the provider:

(a) the meal service shall meet local health department food service regulations;

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

(c) the provider shall use the CACFP menus, the standard Department-approved menus, 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;

(d) the current week's menu shall be posted for review by parents and the Department; and

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

(3) The person who serves food to children shall:

(a) be aware of the children in their assigned group who have food allergies or sensitivities, and

(b) ensure that the children are not served the food or drink they are allergic or sensitive to.

(4) Children's food shall be served on dishes, napkins, except an individual finger food, such as a cracker, that may be placed directly in a child's hand. Food shall not be placed on a bare table.

(5) Food and drink brought in by parents for their child's use shall be:

(a) labeled with the child's name,

(b) refrigerated if needed, and

(c) consumed only by that child.

### **R381-70-17. Medications.**

(1) Nonrefrigerated medications shall be stored at least 48 inches above the floor or shall be locked.

(2) Refrigerated medications shall be stored at least 36 inches above the floor or shall be locked, and if liquid, they shall be stored in a separate leakproof container.

(3) All over-the-counter and prescription medications supplied by parents 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.

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

(5) The medication permission form shall include:

(a) the name of the child,

(b) the name of the medication,

(c) written instructions for administration, and

(d) the parent signature and the date signed.

(6) The instructions for administering the medication shall include:

(a) the dosage,

(b) how the medication will be given,

(c) the times and dates to administer the medication, and

(d) the disease or condition being treated.

(7) If the provider supplies an over-the-counter medication for children's use, the medication shall not be administered to any child without previous parental consent for each instance it is given. The consent shall be:

(a) prior written consent; or

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

(8) The staff member administering the medication shall:

(a) wash their hands,

(b) check the medication label to confirm the child's name if the parent supplied the medication,

(c) check the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer, and

(d) administer the medication.

(9) Immediately after administering a medication, the staff member giving the medication shall record the following information:

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

(b) any errors in administration or adverse reactions; and

(c) their signature or initials.

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

(11) 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 before the time the medication needs to be given.

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

### **R381-70-18. Activities.**

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

(2) Daily activities shall include outdoor play as weather and air quality allow.

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

(4) The provider shall post a daily activity schedule that includes:

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

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

(5) Toys, materials, and equipment needed to support children's healthy development shall be available to the children.

(6) Except for occasional special events, children's screen time on media such as television, cell phones, tablets, and computers shall be part of a media plan that addresses the needs of children.

(7) If swimming activities are offered:

(a) the provider shall obtain parental permission before each child uses the pool;

(b) staff shall stay at the pool supervising whenever a child is in the pool or has access to the pool;

(c) if the pool is over 4 feet deep, there shall be a lifeguard on duty who is certified by the Red Cross or other approved certification program any time children have access to the pool; and

(d) lifeguards and pool personnel shall not count toward the staff-to-child ratio.

(8) If offsite activities are offered:

(a) the provider shall obtain written parental consent before each activity;

(b) the required staff-to-child ratio and supervision shall be maintained during the entire activity;

(c) a first aid kit shall be available;

(d) children shall wear or carry with them the name and phone number of the program;

(e) children's names shall not be used on nametags, t-shirts, or in other visible ways; and

(f) there shall be a way for staff and children to wash their hands with soap and water, or if there is no source of running water, staff and children shall clean their hands with wet wipes and hand sanitizer.

(9) On every offsite activity, staff shall take the written emergency information and releases for each child in the group. The information shall include:

(a) the child's name,

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

(c) the name and phone number of a person to notify in case of an emergency if the parent cannot be contacted,

(d) the names of people authorized by the parents to pick up the child, and

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

**R381-70-19. Play Equipment.**

(1) The provider shall ensure that children using play equipment use it safely and in the manner intended by the manufacturer.

(2) With the exception of swings, stationary play equipment with any designated play surface higher than 30 inches shall have at least a 6-foot use zone measured from the outermost edge of the equipment.

(3) The use zone in the front and rear of a single-axis swing shall extend at least twice the distance of the swing pivot point to the ground.

(4) The use zone for the sides of a single-axis swing shall extend at least 6 feet from the outermost edge of the swing.

(5) The use zone for a multi-axis swing, such as a tire swing, shall extend at least the measurement of the suspending rope or chain plus 6 feet.

(6) The use zone for a merry-go-round shall extend at least 6 feet in all directions from its outermost edge.

(7) The use zone for a spring rocker shall extend at least 6 feet from the outermost edge of the rocker when at rest if the seat is higher than 20 inches.

(8) The following use zones shall not overlap the use zone of any other piece of play equipment:

(a) the use zone in front of a slide,

(b) the use zone in the front and rear of any single-axis swing,

(c) the use zone of a multi-axis swing, and

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

(10) Unless prohibited in R381-70-19(8), the use zones of play equipment may overlap when:

(a) there is at least 6 feet between the pieces of equipment if the designated play surface is 30 inches or lower, or (b) there is at least 9 feet between the pieces of equipment if the designated play surface is higher than 30 inches.

(11) Stationary play equipment without moving parts children sit or stand on shall not be placed on concrete, asphalt, dirt, a bare floor, or any other hard surface, but may be placed on grass or other cushioning, if the highest designated play surface measures between 6 to 30 inches.

(12) Protective cushioning shall cover the entire surface of each required use zone and its depth or thickness shall be determined by the highest designated play surface of the equipment.

(13) If sand, gravel, or shredded tires are used as protective cushioning, the depth of the material shall meet the CPSC guidelines in Table 1.

(a) the provider shall ensure that the cushioning is periodically checked for compaction and loosened to the depth listed in Table 1 if compacted; and

(b) 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'	6"	9"	6"	9"	6"
Over 6' up to 7'	9"	not allowed	9"	not allowed	6"
Over 7' up to 8'	9"	not allowed	9"	not allowed	6"
Over 8' up to 9'	9"	not allowed	9"	not allowed	6"
Over 9' up to 10'	not allowed	not allowed	9"	not allowed	6"
Over 10' up to 11'	not allowed	not allowed	not allowed	not allowed	6"
Over 11' up to 12'	not allowed	not allowed	not allowed	not allowed	6"

(14) If shredded wood products are used as protective cushioning:

(a) the provider shall keep on-site for review by the Department documentation from the manufacturer that the wood product meets ASTM Specification F1292.

(b) there shall be adequate drainage under the material, and

(c) 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"	6"	9"	9"
Over 7' up to 8'	9"	9"	9"	9"
Over 8' up to 9'	9"	9"	9"	9"
Over 9' up to 10'	9"	9"	9"	9"
Over 10' up to 11'	9"	9"	9"	9"
Over 11'	9"	not allowed	not allowed	not allowed

(15) If a unitary cushioning is used, the provider shall ensure that the material meets the standard established in ASTM Specification F1292. The provider shall maintain on-site for review by

the Department documentation from the manufacturer that the material meets these specifications.

(16) If a unitary cushioning is used, the provider 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.

(17) A play equipment platform that is more than 48 inches above the floor or ground shall have a protective barrier that is at least 38 inches high.

(18) There shall be no gap greater than 3-1/2 inches in or under a required protective barrier on a play equipment platform.

(19) Stationary play equipment shall be stable and securely anchored.

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

(21) There shall be no heavy metal swings, such as animal-shaped swings, accessible to children.

(22) There shall be no entrapment hazards on or within the use zone of any piece of stationary play equipment.

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

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

(25) 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.

#### **R381-70-20. Transportation.**

If transportation services are offered:

(1) For each child being transported, the provider shall have a transportation permission form:

(a) signed by the parent, and

(b) on-site for review by the Department.

(2) Each vehicle used for transporting children shall:

(a) be enclosed with a roof or top,

(b) be equipped with safety restraints,

(c) have a current vehicle registration,

(d) be maintained in a safe and clean condition,

(e) contain a first aid kit, and

(f) contain a body fluid clean up kit.

(3) The safety restraints in each vehicle that transports children shall:

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

(b) be properly installed; and

(c) be in safe condition and working order.

(4) The driver of each vehicle who is transporting children shall:

(a) be at least 18 years old;

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

(c) have with them the written emergency contact information for each child being transported;

(d) ensure that each child being transported is in an individual safety restraint that is used according to Utah law;

(e) ensure that the inside vehicle temperature is between 60-85 degrees Fahrenheit;

(f) never leave a child in the vehicle unattended by an adult;

(g) ensure that children stay seated while the vehicle is moving;

(h) never leave the keys in the ignition when not in the driver's seat; and

(i) ensure that the vehicle is locked during transport.

(5) When the provider walks or uses public transportation to transport children to or from the facility, the provider shall ensure that:

(a) each child being transported has a completed transportation permission form signed by their parent,

(b) a staff member goes with the children and actively supervises them,

(c) the staff-to-child ratio is maintained, and

(d) staff take each child's written emergency contact information and releases with them.

#### **R381-70-21. Animals.**

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

(2) There shall be no animal on the premises that:

(a) is naturally aggressive;

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

(c) has a history of biting even one person.

(3) Animals at the facility shall be clean and free of obvious disease or health problems that could adversely affect children.

(4) There shall be no animal or animal equipment in food preparation or eating areas.

(5) If children help in the cleaning of animals or animal equipment, the children shall wash their hands immediately after cleaning the animal or equipment.

(6) Children and staff shall wash their hands immediately after playing with or touching animals, including reptiles and amphibians.

(7) Dogs, cats, and ferrets that are housed at the facility shall have current rabies vaccinations.

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

**KEY: child care facilities, child care, child care centers, out of school time child care programs**

**Date of Enactment or Last Substantive Amendment: [~~March 30, 2016~~2017]**

**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**

(Amendment)

DAR FILE NO.: 42021

FILED: 08/14/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The child care community, the Child Care Center Licensing Committee, and the Child Care Licensing Program supported the need for a revision of this rule. This rule was written in a very complex format and had many parts that were no longer applicable. Additionally, there were different sets of rules that applied to this provider type and also needed to be rewritten and combined in one single set of rules for clarity and to make it simpler to understand and follow.

**SUMMARY OF THE RULE OR CHANGE:** This rule was rewritten using simpler language and all rules that were not applicable were deleted. The rule sections were reorganized and renamed, and Rule R430-6 (the background screening rule) and Rule R430-1 (the administrative rule) were also rewritten and combined with this rule to have all requirements in one place.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Subsection 26-39-203(1)(a)

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** Some state agencies operate child care centers. However, the Child Care Licensing Committee does not anticipate any cost or savings as a result of this change.

♦ **LOCAL GOVERNMENTS:** Some local governments operate child care centers. Since the proposed changes do not add any requirements, the Child Care Licensing Committee does not anticipate any costs or savings to child care programs operated by state agencies.

♦ **SMALL BUSINESSES:** Almost all child care centers are small businesses. Since the proposed changes do not add any requirements, the Child Care Licensing Committee does not anticipate any costs or savings to child care programs operated by small business.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Since the proposed changes do not add any requirements, the Child Care Licensing Committee does not anticipate any 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 Child Care Licensing Committee does not anticipate any compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is not fiscal impact for any of the parties affected by

these proposed rule changes because these rules were only rewritten and reorganized in simpler language and no additional requirements were included.

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

HEALTH  
CHILD CARE CENTER LICENSING COMMITTEE  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Office 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 10/02/2017

THIS RULE MAY BECOME EFFECTIVE ON: 10/10/2017

AUTHORIZED BY: Joseph Miner, MD, 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) "Director" means a person who meets the director qualifications of this rule, and who assumes the day-to-day responsibilities for the facility to be in compliance with Child Care Licensing rules.~~

~~\_\_\_\_\_ (9) "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.~~

\_\_\_\_\_ (10) "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.

\_\_\_\_\_ (11) "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.

\_\_\_\_\_ (12) "Health Care Provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.

\_\_\_\_\_ (13) "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 cannot get to.

\_\_\_\_\_ (14) "Infant" means a child aged birth through 11 months of age.

\_\_\_\_\_ (15) "Infectious Disease" means an illness that is capable of being spread from one person to another.

\_\_\_\_\_ (16) "Licensee" means the legally responsible person or persons holding a valid Department of Health child care license.

\_\_\_\_\_ (17) "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.

\_\_\_\_\_ (18) "Parent" means the parent or legal guardian of a child in care.

\_\_\_\_\_ (19) "Person" means an individual or a business entity.

\_\_\_\_\_ (20) "Physical Abuse" means causing non-accidental physical harm to a child.

\_\_\_\_\_ (21) "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.

\_\_\_\_\_ (22) "Preschooler" means a child aged 2 through 4, and 5-year olds who have not yet started kindergarten.

\_\_\_\_\_ (23) "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.

\_\_\_\_\_ (24) "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).

\_\_\_\_\_ (25) "Provider" means the licensee or the entity providing child care services.

\_\_\_\_\_ (26) "Sanitize" means to remove soil and small amounts of certain bacteria from a surface or object with a chemical agent.

\_\_\_\_\_ (27) "School Age" means children ages five through twelve.

\_\_\_\_\_ (28) "Sexual Abuse" means abuse as defined in Utah Code, Section 76-5-404.1.(1)(2).

\_\_\_\_\_ (29) "Sexually Explicit Material" means any depiction of sexually explicit conduct, as defined in Utah Code, Section 76-5a-2(8).

\_\_\_\_\_ (30) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, or play pen.

\_\_\_\_\_ (31) "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.

\_\_\_\_\_ (32) "Toddler" means a child aged 12 months but less than 24 months.

\_\_\_\_\_ (33) "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.

\_\_\_\_\_ (34) "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 whenever there are children in the outdoor play area.~~

~~(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	Sand		Gravel		Shredded Tires
	Fine	Coarse	Fine	Medium	
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		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.

#### **R381-100-7. Personnel.**

(1) The center must have a director who is at least 21 years of age, who has completed the Center Director Training class offered by the Department, 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) as approved by the Department, 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, or their equivalent, as approved by the Utah Child Care Professional Development Institute: 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) Any bachelors or higher college degree, and valid proof of completion of the following six Utah Early Childhood Career Ladder courses, or their equivalent, as approved by the Utah Child Care Professional Development Institute: 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.

(2) Any new Center director must complete the Department's Center Director Training Class no later than 60 working days after assuming director duties.

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

(4) 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.

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

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

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

(8) Whenever there are children at the center, there shall be at least one caregiver present who can demonstrate the English literacy skills needed to care for children and respond to emergencies.

(9) Each new caregiver, and volunteers who count in the caregiver to child ratio, shall receive at least 2.5 hours of pre-service training prior to assuming caregiving duties. Pre-service training shall be documented in the caregiver's file and shall include the following topics:

(a) job description and duties;

(b) the Department-approved center's written policies and procedures;

(c) the Department-approved 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) 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;

(h) recognizing the signs of homelessness and available assistance;

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

(j) prevention of sudden infant death syndrome and use of safe sleeping practices.

(10) 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 caregiver to child ratio.

(11) 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.

(12) 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.

(13) 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 Department-approved 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;~~

~~\_\_\_\_\_ (e) positive guidance;~~

~~\_\_\_\_\_ (f) prevention of shaken baby syndrome and abusive head trauma, and coping with crying babies;~~

~~\_\_\_\_\_ (g) prevention of sudden infant death syndrome and use of safe sleeping practices; and~~

~~\_\_\_\_\_ (h) recognizing the signs of homelessness and available assistance;~~

~~\_\_\_\_\_ (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 pre-service 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 licensee shall establish, and shall ensure that all caregivers follow, written policies and procedures for the health and safety of each child in care. The licensee shall submit to the Department these policies and procedures for approval on a form provided by Child Care Licensing.~~

~~\_\_\_\_\_ (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) copy of all covered individuals' background screening cards issued by the Department.~~

~~\_\_\_\_\_ (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) copy of the current background screening card issued by the Department;
- (c) a six-week record of days worked, and the times worked each day;
- (d) pre-service training documentation for caregivers, and for volunteers who count in the caregiver to child ratio;
- (e) annual training documentation for all caregivers 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 licensee shall submit to the Department a written emergency preparedness and disaster response plan for approval on a form provided by Child Care Licensing.

(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 5-16.

TABLE 5

Older Toddlers and Two-year-olds

# Caregivers Required	Age	# Children Present
1	18 to 23 months	1-3
2		1-6
	Total children:	up to 7
2	18 to 23 months	1-6
2		1-13
	Total children:	up to 14

TABLE 6

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 7

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 8

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 9

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 10

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 11

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 12

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 13

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 14

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 15

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 16

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, e-cigarettes, e-juice, e-liquids, 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 sent 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 make available 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 made available to 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;~~

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

~~(e) meet CPSC crib standards.~~

~~(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.]~~

**R381-100-1. Legal Authority and Purpose.**

(1) This rule is enacted and enforced in accordance with Utah Code, Title 26, Chapter 39.

(2) This rule establishes the foundational standards necessary to protect the health and safety of children in child care centers and defines the general procedures and requirements to obtain and maintain a license to provide child care.

**R381-100-2. Definitions.**

(1) "Applicant" means a person or business who has applied for a new or a renewal of a license, certificate, or exemption from Child Care Licensing.

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

(3) "Background Finding" means information in a background screening that may result in a denial from Child Care Licensing.

(4) "Background Screening Denial" means that an individual has failed the background screening and is prohibited from being involved with a child care program.

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

(6) "Body Fluid" means blood, urine, feces, vomit, mucus, and/or saliva.

(7) "Capacity" means the maximum number of children for whom care can be provided at any given time.

(8) "Caregiver-to-Child Ratio" means the number of caregivers responsible for a specific number of children.

(9) "CCL" means the Child Care Licensing Program in the Department of Health that is delegated with the responsibility to enforce the Utah Child Care Licensing Act.

(10) "Child Care" means continuous care and supervision of 5 or more qualifying children that is:

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

(b) for less than 24 hours a day, and

(c) for direct or indirect compensation.

(11) "Child Care Center Licensing Committee" means the Child Care Center Licensing Committee created in the Utah Child Care Licensing Act.

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

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

(14) "Conditional Status" means that the provider is at risk of losing their license because compliance with licensing rules has not been maintained.

(15) "Covered Individual" means any of the following individuals involved with a child care program:

(a) an owner;

(b) a director;

(c) a member of the governing body;

\_\_\_\_\_ (d) an employee;  
\_\_\_\_\_ (e) a caregiver;  
\_\_\_\_\_ (f) a volunteer, except a parent of a child enrolled in the child care program;  
\_\_\_\_\_ (g) an individual age 12 years or older who resides in the facility; and  
\_\_\_\_\_ (h) anyone who has unsupervised contact with a child in care.

\_\_\_\_\_ (16) "CPSC" means the Consumer Product Safety Commission.

\_\_\_\_\_ (17) "Department" means the Utah Department of Health.

\_\_\_\_\_ (18) "Designated Play Surface" means any accessible elevated surface for standing, walking, crawling, sitting or climbing; or an accessible flat surface at least 2 by 2 inches in size and having an angle less than 30 degrees from horizontal.

\_\_\_\_\_ (19) "Director" means a person who meets the director qualifications in this rule, and who assumes the day-to-day responsibilities for compliance with Child Care Licensing rules.

\_\_\_\_\_ (20) "Emotional Abuse" means behavior that could harm a child's emotional development, such as threatening, intimidating, humiliating, demeaning, criticizing, rejecting, using profane language, and/or using inappropriate physical restraint.

\_\_\_\_\_ (21) "Entrapment Hazard" means an opening greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing a child's entrapment and strangulation.

\_\_\_\_\_ (22) "Facility" means a child care program or the premises approved by the Department to be used for child care.

\_\_\_\_\_ (23) "Group" means the children who are supervised by one or more caregivers in an individual room or in an area within a room that is defined by furniture or other partition.

\_\_\_\_\_ (24) "Group Size" means the number of children in a group.

\_\_\_\_\_ (25) "Guest" means an individual who is not a covered individual and is at the child care facility with the provider's permission.

\_\_\_\_\_ (26) "Health Care Provider" means a licensed health professional, such as a physician, dentist, nurse practitioner, or physician's assistant.

\_\_\_\_\_ (27) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence as described in the McKinney-Vento Act, McKinney-Vento Homeless Assistance Act (Title IX, Part A of ESSA)

\_\_\_\_\_ (28) "Inaccessible" means out of reach of children by being:

\_\_\_\_\_ (a) locked, such as in a locked room, cupboard, or drawer;

\_\_\_\_\_ (b) secured with a child safety device, such as a child safety cupboard lock or doorknob device;

\_\_\_\_\_ (c) behind a properly secured child safety gate;

\_\_\_\_\_ (d) located in a cupboard or on a shelf that is at least 36 inches above the floor; or

\_\_\_\_\_ (e) in a bathroom, at least 36 inches above any surface from where a child could stand or climb.

\_\_\_\_\_ (29) "Infant" means a child who is younger than 12 months of age.

\_\_\_\_\_ (30) "Infectious Disease" means an illness that is capable of being spread from one person to another.

\_\_\_\_\_ (31) "Involved with Child Care" means to do any of the following at or for a child care program licensed by the Department:

\_\_\_\_\_ (a) provide child care;

\_\_\_\_\_ (b) volunteer at a child care program;

\_\_\_\_\_ (c) own, operate, direct, or be employed at a child care program;

\_\_\_\_\_ (d) reside at a facility where child care is provided; or

\_\_\_\_\_ (e) be present at a facility while care is being provided, except for authorized guests or parents who are dropping off a child, picking up a child, or attending a scheduled event at the child care facility.

\_\_\_\_\_ (32) "License" means a license issued by the Department to provide child care services.

\_\_\_\_\_ (33) "Licensee" means the legally responsible person or business that holds a valid license from Child Care Licensing.

\_\_\_\_\_ (34) "LIS Supported Finding" means background screening information from the Licensing Information System (LIS) database for child abuse and neglect, maintained by the Utah Department of Human Services.

\_\_\_\_\_ (35) "McKinney-Vento Act" means a federal law that requires protections and services for children and youth who are homeless including those with disabilities. McKinney-Vento Homeless Assistance Act (Title IX, Part A of ESSA)

\_\_\_\_\_ (36) "Over-the-Counter Medication" means medication that can be purchased without a written prescription including herbal remedies, vitamins, and mineral supplements.

\_\_\_\_\_ (37) "Parent" means the parent or legal guardian of a child in care.

\_\_\_\_\_ (38) "Person" means an individual or a business entity.

\_\_\_\_\_ (39) "Physical Abuse" means causing nonaccidental physical harm to a child.

\_\_\_\_\_ (40) "Play Equipment Platform" means a flat surface on a piece of stationary play equipment intended for more than one child to stand on, and upon which the children can move freely.

\_\_\_\_\_ (41) "Preschooler" means a child age 2 through 4 years old.

\_\_\_\_\_ (42) "Protective Barrier" means a structure such as bars, lattice, or a panel that is around an elevated platform and is intended to prevent accidental or deliberate movement through or access to something.

\_\_\_\_\_ (43) "Protective Cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of injuries from falls.

\_\_\_\_\_ (44) "Provider" means the legally responsible person or business that holds a valid license from Child Care Licensing.

\_\_\_\_\_ (45) "Qualifying Child" means:

\_\_\_\_\_ (a) a child who is younger than 13 years old and is the child of a person other than the child care provider or caregiver.

\_\_\_\_\_ (b) a child with a disability who is younger than 18 years old and is the child of a person other than the provider or caregiver, or

\_\_\_\_\_ (c) a child who is younger than 4 years old and is the child of the provider or a caregiver.

\_\_\_\_\_ (46) "Related Child" means a child for whom a provider is the parent, legal guardian, step-parent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.

\_\_\_\_\_ (47) "Sanitize" means to use a chemical product to remove soil and bacteria from a surface or object.

\_\_\_\_\_ (48) "School-Age Child" means a child age 5 through 12 years old.

\_\_\_\_\_ (49) "Sexual Abuse" means abuse as defined in Utah Code, Title 76-5-404(1).

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

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

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

(a) a sandbox;

(b) a stationary circular tricycle;

(c) a sensory table; or

(d) a playhouse that sits on the ground or floor and has no attached equipment, such as a slide, swing, or climber.

(53) "Strangulation Hazard" means something on which a child's clothes or drawstrings could become caught, or something in which a child could become entangled such as:

(a) a protruding bolt end that extends more than 2 threads beyond the face of the nut;

(b) hardware that forms a hook or leaves a gap or space between components such as a protruding S-hook; or

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

(54) "Substitute" means a person who assumes a caregiver's duties when the caregiver is not present.

(55) "Toddler" means a child aged 12 through 23 months.

(56) "Unrelated Child" means a child who is not a "related child" as defined in R381-100-2(46).

(57) "Unsupervised Contact" means being with, caring for, communicating with, or touching a child in the absence of a caregiver or other employee who is at least 18 years old and has passed a Child Care Licensing background screening.

(58) "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.

(59) "Volunteer" means an individual who receives no form of direct or indirect compensation for their service.

(60) "Working Days" means the days of the week the Department is open for business.

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

(1) A person or persons shall be licensed as a child care center if they provide care:

(a) in the absence of the child's parent,

(b) in a place other than the provider's home or the child's home,

(c) for 5 or more children,

(d) for 4 or more hours per day,

(e) for each individual child for less than 24 hours per day,

(f) on an ongoing basis for 4 or more weeks in a year, and

(g) for direct or indirect compensation.

(2) The Department may not license, nor is a license required for:

(a) a person who cares for related children only, or

(b) a person who provides care on a sporadic basis only.

(3) According to Foster Care Services rule R501-12-4(8)(f), a provider may not be licensed to provide child care in a facility that is

also licensed to offer foster or respite care services, or another licensed or certified human services program.

### **R381-100-4. License Application, Renewal, Changes, and Variances.**

(1) An applicant for a new child care license shall submit to the Department:

(a) an online application;

(b) a copy of a current local fire clearance or a statement from the local fire authority that a fire inspection is not required;

(c) a copy of a current local health department kitchen clearance for a facility providing food service or a statement from the local health department that a kitchen inspection is not required;

(d) a copy of a current local business license or a statement from the city that a business license is not required;

(e) a copy of the educational credentials of the person who will be the director as required in R381-100-7(4);

(f) a copy of a completed Department health and safety plan form;

(g) CCL background screenings for all covered individuals as required in R381-100-8;

(h) a current copy of the Department's new provider training certificate of attendance; and

(i) all required fees, which are nonrefundable.

(2) The applicant shall pass a Department's inspection of the facility before a new license or a renewal is issued.

(3) If the local fire authority states that a fire inspection is not required, a Department's CCL inspection for a new license or a renewal of a license shall include compliance with the following:

(a) address numbers and/or letters shall be readable from the street;

(b) address numbers and/or letters shall be at least 4 inches in height and 1/2 inch thick;

(c) exit doors shall operate properly and shall be well maintained;

(d) obstructions in exits, aisles, corridors, and stairways shall be removed;

(e) items stored under exit stairs shall be removed;

(f) exit doors shall be unlocked from the inside during business hours;

(g) exits shall be clearly identified;

(h) there shall be unobstructed fire extinguishers that are of an X minimum rate and appropriate to the type of hazard, currently charged and serviced, and mounted not more than 5 feet above the floor;

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

(j) boiler, mechanical, and electrical panel rooms shall not be used for storage.

(4) If the provider serves food and the local health department states that a kitchen inspection is not required, a Department's CCL inspection for a new license or a renewal of a license shall include compliance with the following:

(a) the refrigerator shall be clean, in good repair, and working at or below 41 degrees Fahrenheit;

(b) there shall be a working thermometer in the refrigerator;

(c) there shall be a working stem thermometer available to check cook and hot hold temperatures;

(d) cooks shall have a current food handler's permit available on-site for review by the Department;

(e) cooks shall use hair restraints and wear clean outer clothing;

(f) according to Food Code 2-103-11, only necessary staff shall be present in the kitchen;

(g) reusable food holders, utensils, and food preparation surfaces shall be washed, rinsed, and sanitized with an approved sanitizer before each use;

(h) chemicals shall be stored away from food and food service items;

(i) food shall be properly stored, kept to the proper temperature, and in good condition; and

(j) there shall be a working handwashing sink in the kitchen and handwashing instructions posted by the sink.

(5) If the applicant does not complete the application process within 6 months of first submitting any portion of the application, the Department may deny the application and to be licensed, the applicant shall reapply. This includes resubmitting all required documentation, repaying licensing fees, and passing another inspection of the facility.

(6) The Department may deny an application for a license if, within the 5 years preceding the application date, the applicant held a license or a certificate that was:

(a) closed under an immediate closure;

(b) revoked;

(c) closed as a result of a settlement agreement resulting from a notice of intent to revoke, a notice of revocation, or a notice of immediate closure;

(d) voluntarily closed after an inspection of the facility found rule violations that would have resulted in a notice of intent to revoke or a notice of revocation had the provider not closed voluntarily; or

(e) voluntarily closed having unpaid fees or civil money penalties issued by the Department.

(7) Each child care license expires at midnight on the last day of the month shown on the license, unless the license was previously revoked by the Department, or voluntarily closed by the provider.

(8) Within 30 to 90 days before a current license expires, the provider shall submit for renewal:

(a) an online renewal request;

(b) applicable renewal fees;

(c) any previous unpaid fees;

(d) a copy of a current business license;

(e) a copy of a current fire inspection report, and

(f) a copy of a current kitchen inspection report.

(9) A provider who fails to renew their license by the expiration date may have an additional 30 days to complete the renewal process if they pay a late fee.

(10) The Department may not renew a license for a provider who is no longer caring for children.

(11) The provider shall submit a complete application for a new license at least 30 days before any of the following changes occur:

(a) a change of the child care facility's location, or

(b) a change that transfers 50 percent or more ownership or controlling interest to a new individual or entity.

(12) The provider shall submit a complete application to amend an existing license at least 30 days before any of the following changes:

(a) an increase or decrease of licensed capacity, including any change to the amount of usable indoor or outdoor space where child care is provided;

(b) a change in the name of the program;

(c) a change in the regulation category of the program;

(d) a change in the name of the provider;

(e) an addition or loss of a director; or

(f) a change in ownership that does not require a new license.

(13) The Department may amend a license after verifying that the applicant is in compliance with all applicable rules and required fees have been paid. The expiration date of the amended license remains the same as the previous license.

(14) A license is not assignable or transferable and shall only be amended by the Department.

(15) If an applicant or provider cannot comply with a rule but can meet the intent of the rule in another way, they may apply for a variance to that rule by submitting a request to the Department.

(16) The Department may:

(a) require additional information before acting on the variance request, and

(b) impose health and safety requirements as a condition of granting a variance.

(17) The provider shall comply with the existing rule until a variance is approved.

(18) If a variance is approved, the provider shall keep a copy of the written approval on-site for review by parents and the Department.

(19) The Department may grant variances for up to 12 months.

(20) The Department may revoke a variance if:

(a) the provider is not meeting the intent of the rule as stated in their approved variance;

(b) the provider fails to comply with the conditions of the variance; or

(c) a change in statute, rule, or case law affects the basis for the variance.

#### **R381-100-5. Rule Violations and Penalties.**

(1) The Department may place a program's child care license on a conditional status for the following causes:

(a) chronic, ongoing noncompliance with rules;

(b) unpaid fees; or

(c) a serious rule violation that places children's health or safety in immediate jeopardy.

(2) The Department shall establish the length of the conditional status and set the conditions that the child care provider shall satisfy to remove the conditional status.

(3) The Department may increase monitoring of the program that is on conditional status to verify compliance with rules.

(4) The Department may deny or revoke a license if the child care provider:

(a) fails to meet the conditions of a license on conditional status;

\_\_\_\_\_ (b) violates the Child Care Licensing Act;  
\_\_\_\_\_ (c) provides false or misleading information to the Department;  
\_\_\_\_\_ (d) misrepresents information by intentionally altering a license or any other document issued by the Department;  
\_\_\_\_\_ (e) refuses to allow authorized representatives of the Department access to the facility to ensure compliance with rules;  
\_\_\_\_\_ (f) refuses to submit or make available to the Department any written documentation required to verify compliance with rules;  
\_\_\_\_\_ (g) commits a serious rule violation that results in death or serious harm to a child, or that places a child at risk of death or serious harm; or  
\_\_\_\_\_ (h) has committed an illegal act that would exclude a person from having a license.  
\_\_\_\_\_ (5) Within 10 working days of receipt of a revocation notice, the provider shall submit to the Department the names and mailing addresses of the parents of each enrolled child so the Department can notify the parents of the revocation.  
\_\_\_\_\_ (6) The Department may order the immediate closure of a facility if conditions create a clear and present danger to any child in care and may require immediate action to protect their health or safety.  
\_\_\_\_\_ (7) Upon receipt of an immediate closure notice, the provider shall give the Department the names and mailing addresses of the parents of each enrolled child so the Department can notify the parents of the immediate closure.  
\_\_\_\_\_ (8) If there is a severe injury or the death of a child in care, the Department may order the child care provider to suspend services and/or prohibit new enrollments, pending a review by the Child Fatality Review Committee or a determination of the probable cause of death or injury by a medical professional.  
\_\_\_\_\_ (9) If a person is providing care for more than 4 unrelated children without the appropriate license, the Department may:  
\_\_\_\_\_ (a) issue a cease and desist order, or  
\_\_\_\_\_ (b) allow the person to continue operation if:  
\_\_\_\_\_ (i) the person was unaware of the need for a license,  
\_\_\_\_\_ (ii) conditions do not create a clear and present danger to the children in care, and  
\_\_\_\_\_ (iii) the person agrees to apply for the appropriate license within 30 calendar days of notification by the Department.  
\_\_\_\_\_ (10) If a person providing care without the appropriate license agrees to apply for a license but does not submit an application and all required application documents within 30 days, the Department may issue a cease and desist order.  
\_\_\_\_\_ (11) A violation of any rule is punishable by an administrative civil money penalty of up to \$5,000 per day as provided in Utah Code, Section 26-39-601.  
\_\_\_\_\_ (12) Assessment of any civil money penalty does not prevent the Department from also taking action to deny, place on conditional status, revoke, immediately close, or refuse to renew a license.  
\_\_\_\_\_ (13) Assessment of any administrative civil money penalty under this section does not prevent court-ordered or other equitable remedies.  
\_\_\_\_\_ (14) The Department may deny an application or revoke a license for failure to pay any required fees, including fees for applications, late fees, returned checks, license changes, additional inspections, conditional monitoring inspections, background screenings, civil money penalties, and other fees assessed by the Department.

\_\_\_\_\_ (15) An applicant or provider may appeal any Department decision within 30 days of being informed of the decision.

**R381-100-6. Administration and Children's Records.**

\_\_\_\_\_ (1) The provider shall:  
\_\_\_\_\_ (a) be at least 21 years of age,  
\_\_\_\_\_ (b) pass a CCL background screening, and  
\_\_\_\_\_ (c) complete the new provider training offered by the Department.  
\_\_\_\_\_ (2) If the owner is not a sole proprietor, the business entity shall submit to the Department the name(s) and contact information of the individual(s) who shall legally represent them and who shall comply with the requirements stated in R381-100-6(1).  
\_\_\_\_\_ (3) The provider shall not engage in or allow conduct that endangers children in care; or is contrary to the health, morals, welfare, and safety of the public.  
\_\_\_\_\_ (4) The provider shall have knowledge of and comply with all federal, state, and local laws, ordinances, and rules, and shall be responsible for the operation and management of a child care program.  
\_\_\_\_\_ (5) The provider shall comply with licensing rules at all times when a child in care is present.  
\_\_\_\_\_ (6) The provider shall post the original child care license on the facility premises in a place readily visible and accessible to the public.  
\_\_\_\_\_ (7) The provider shall post a copy of the Department's Parent Guide at the facility for parent review during business hours.  
\_\_\_\_\_ (8) The provider shall inform parents and the Department of any changes to the program's telephone number and other contact information within 48 hours of the change.  
\_\_\_\_\_ (9) The provider shall establish, follow, and ensure that all staff and volunteers follow a written health and safety plan that is:  
\_\_\_\_\_ (a) completed on the Department's required form,  
\_\_\_\_\_ (b) submitted to the Department for initial approval and any time changes are made to the plan,  
\_\_\_\_\_ (c) reviewed and updated as needed,  
\_\_\_\_\_ (d) signed and dated at least annually, and  
\_\_\_\_\_ (e) available for review by parents, staff, and the Department during business hours.  
\_\_\_\_\_ (10) The provider shall ensure that each parent completes an admission and health assessment form for their child before the child is admitted into the child care program.  
\_\_\_\_\_ (11) The admission and health assessment form shall include the following information:  
\_\_\_\_\_ (a) child's name;  
\_\_\_\_\_ (b) child's date of birth;  
\_\_\_\_\_ (c) parent's name, address, and phone number, including a daytime phone number;  
\_\_\_\_\_ (d) names of people authorized by the parent to pick up the child;  
\_\_\_\_\_ (e) name, address, and phone number of a person to be contacted in case of an emergency if the provider is unable to contact the parent;  
\_\_\_\_\_ (f) if available, the name, address, and phone number of an out-of-area emergency contact person for the child;  
\_\_\_\_\_ (g) current emergency medical treatment and emergency transportation releases with the parent's signature;  
\_\_\_\_\_ (h) any known allergies of the child;  
\_\_\_\_\_ (i) any known food sensitivities of the child;



(j) any chronic medical conditions that the child may have;  
(k) instructions for special or nonroutine daily health care of the child;

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

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

(12) The admission and health assessment form shall:

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

(b) kept on-site for review by the Department.

(13) Before admitting any child younger than 5 years of age into the child care program, including the provider's and employees' own children, the provider shall obtain the following documentation from the child's parent:

(a) current immunizations, as required by Utah law;

(b) a medical schedule to receive required immunizations;

(c) a legal exemption; or

(d) a 90-day exemption for children who are homeless.

(14) For each child younger than 5 years of age, including the provider's and employees' own children, the provider shall keep their current immunization records on-site for review by the Department.

(15) The provider shall submit the annual immunization report to the Immunization Program in the Utah Department of Health by the date specified by the Department.

(16) Each child's information shall be kept confidential and shall not be released without written parental permission.

#### **R381-100-7. Personnel and Training Requirements.**

(1) The provider shall train and supervise employees and volunteers to ensure that they are qualified to:

(a) meet the needs of the children as required by rule, and

(b) be in compliance with all licensing rules.

(2) The provider shall ensure that the center has a qualified director as required by licensing rules.

(3) The director shall:

(a) be at least 21 years of age;

(b) pass a CCL background screening;

(c) receive at least 2.5 hours of preservice training before beginning job duties;

(d) complete the new director training offered by the Department within 60 working days of assuming director duties;

(e) have knowledge of and follow all applicable laws and rules; and

(f) complete at least 20 hours of child care training each year, based on the facility's license date.

(4) New directors shall have one of the following educational credentials:

(a) any bachelor's or higher education degree, and at least 60 clock hours of approved Utah Early Childhood Career Ladder courses in child development, social/emotional development, and the child care environment; or 60 clock hours of equivalent training as approved by the Department;

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

(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 equivalent credential as approved by the Department;

(d) at least a Level 9 from the Utah Early Childhood Career Ladder system; or

(e) a National Administrator Credential (NAC) and at least 60 clock hours of approved Utah Early Childhood Career Ladder courses in child development, social/emotional development, and the child care environment; or 60 clock hours of equivalent training as approved by the Department.

(5) The director shall be on duty at the facility for at least 20 hours per week during operating hours and have sufficient freedom from other responsibilities to manage the center and respond to emergencies.

(6) The director shall arrange for a designee who shall have authority to act on behalf of the director in the director's absence.

(7) The director designee shall:

(a) be at least 21 years of age;

(b) pass a CCL background screening;

(c) receive at least 2.5 hours of preservice training before beginning job duties;

(d) have knowledge of and follow all applicable laws and rules; and

(e) complete at least 20 hours of child care training each year, based on the facility's license date.

(8) The director or the director designee shall be present at the facility whenever the center is open for care.

(9) Caregivers shall:

(a) be at least 16 years old;

(b) pass a CCL background screening;

(c) receive at least 2.5 hours of preservice training before caring for children;

(d) have knowledge of and follow all applicable laws and rules; and

(e) complete at least 20 hours of child care training each year, based on the facility's license date.

(10) Substitutes shall:

(a) be at least 18 years old;

(b) pass a CCL background screening;

(c) be capable of providing care, supervising children, and handling emergencies in the caregiver's absence;

(d) receive at least 2.5 hours of preservice training before caring for children; and

(e) complete at least 1.5 hours of child care training for each month they work 40 hours or more.

(11) All other employees such as drivers, cooks, and clerks shall:

(a) pass a CCL background screening;

(b) receive at least 2.5 hours of preservice training before beginning job duties, and

(c) have knowledge of and follow all applicable laws and rules.

(12) Volunteers shall:

(a) pass a CCL background screening, and

(b) not have unsupervised contact with any child in care if the volunteer is younger than 18 years of age.

(13) Guests:

(a) shall not have unsupervised contact with any child in care,

(b) shall wear a guest nametag, and

(c) are not required to pass a CCL background screening.

(14) Student interns who are registered and participating in a high school or college child care course:

(a) are not required to pass a CCL background screening,  
(b) shall not have unsupervised contact with any child in care, and

(c) shall wear a guest nametag.

(15) Parents of children in care:

(a) shall not have unsupervised contact with any child in care except their own, and

(b) do not need a CCL background screening unless involved with child care in the center.

(16) Household members who are:

(a) 12 to 17 years old shall pass a CCL background screening;

(b) 18 years of age or older shall pass a CCL background screening that includes fingerprints; and

(c) younger than 18 years of age shall not have unsupervised contact with any child in care including during offsite activities and transportation.

(17) Individuals who provide IEP or IFSP services such as physical, occupational, or speech therapists:

(a) are not required to have a CCL background screening as long as the child's parent has given permission for services to take place at the center, and

(b) shall provide proper identification before having access to the facility or a child at the facility.

(18) Members from law enforcement or from Child Protective Services:

(a) are not required to have a CCL background screening, and

(b) shall provide proper identification before having access to the facility or a child at the facility.

(19) Preservice training shall include the following:

(a) job description and duties;

(b) current Department rule sections R381-100-7 through 24;

(c) the Department-approved health and safety plan that includes preparing for and responding to emergencies;

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

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

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

(g) recognizing the signs of homelessness and available assistance;

(h) a review of the information in each child's health assessment in the caregiver's assigned group; and

(i) an introduction and orientation to the children in care.

(20) Documentation of each individual's preservice training shall be kept on-site for review by the Department and include the following:

(a) training topics,

(b) date of the training, and

(c) total hours or minutes of training.

(21) Annual child care training shall include the following topics:

(a) current Department rule sections R381-100-7 through 24;

(b) the Department-approved health and safety plan that includes preparing for and responding to emergencies;

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

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

(e) positive guidance and interactions with children;

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

(g) prevention of sudden infant death syndrome (SIDS) and use of safe sleeping practices; and

(h) recognizing the signs of homelessness and available assistance.

(22) At least 10 of the 20 hours of annual child care training shall be face-to-face instruction.

(23) Individuals who are required to receive annual child care training and who begin employment partway through the facility's license year shall complete a proportionate number of training hours, including the face-to-face instruction.

(24) Documentation of each individual's annual child care training shall be kept on-site for review by the Department and include the following:

(a) training topic,

(b) date of the training,

(c) whether the training was face-to-face or non-face-to-face instruction,

(d) name of the person or organization that presented the training, and

(e) total hours or minutes of training.

(25) Whenever there are children at the center, there shall be at least one caregiver present who can demonstrate English literacy skills needed to care for children and respond to emergencies.

(26) At least one staff member with a current Red Cross, American Heart Association, or equivalent first aid and infant/child CPR certification shall be present when children are in care:

(a) at the facility,

(b) in each vehicle transporting children, and

(c) at each offsite activity.

(27) CPR certification shall include hands-on testing.

(28) The following records for each covered individual shall be kept on-site for review by the Department:

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

(b) a copy of the current background screening card issued by the Department;

(c) a current first aid and CPR certification, if required in rule; and

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

#### **R381-100-8. Background Screenings.**

(1) The provider shall ensure that an online CCL background screening form is submitted within 10 working days from when:

(a) a new covered individual becomes involved with the program,

(b) a new covered individual age 12 years or older begins living in the facility, and

(c) a child who resides in the facility turns 12 years old.

(2) Unless an exception is granted in rule, the provider shall ensure that a CCL background screening for each individual age 18 years or older includes fingerprints and fingerprints fees.

(3) The fingerprints shall be prepared by a local law enforcement agency or an agency approved by local law enforcement.

(4) If fingerprints are submitted through Live Scan (electronically), the agency taking the fingerprints shall follow the Department's guidelines.

(5) Fingerprints are not required if:

(a) the covered individual has resided in Utah continuously for the past 5 years, or since the individual's 18th birthday and will only be involved with child care in a program that was licensed or certified prior to 1 July 2013; or

(b) the covered individual has previously submitted fingerprints to the Department under this section for a national criminal history record check and has resided in Utah continuously since that time.

(6) Background screenings are valid for 1 year and shall be renewed before the last day of the month listed on the covered individual's background screening card.

(7) At least 2 weeks before the end of the month that is written on a covered individual's background screening card, the provider shall:

(a) have the individual submit an online CCL background screening form,

(b) authorize the individual's background screening form, and

(c) pay all required fees.

(8) Regardless of any exception in rule, if an in-state criminal background screening indicates that a covered individual age 18 years or older has a background finding, the Department may require that individual to submit fingerprints and fees in order for the Department to conduct a national criminal background screening for that individual.

(9) The following background findings may deny a covered individual from being involved with child care:

(a) LIS supported findings,

(b) the individual's name appears on the Utah or national sex offender registry,

(c) any felony convictions,

(d) any Misdemeanor A convictions, or

(e) Misdemeanor B and C convictions for the reasons listed in R381-100-8(10).

(10) The following convictions, regardless of severity, may result in a background screening denial:

(a) unlawful sale or furnishing alcohol to minors;

(b) sexual enticing of a minor;

(c) cruelty to animals, including dogfighting;

(d) bestiality;

(e) lewdness, including lewdness involving a child;

(f) voyeurism;

(g) providing dangerous weapons to a minor;

(h) a parent providing a firearm to a violent minor;

(i) a parent knowing of a minor's possession of a dangerous weapon;

(j) sales of firearms to juveniles;

(k) pornographic material or performance;

(l) sexual solicitation;

(m) prostitution and related crimes;

(n) contributing to the delinquency of a minor;

(o) any crime against a person;

(p) a sexual exploitation act;

(q) leaving a child unattended in a vehicle; and

(r) driving under the influence (DUI) while a child is present in the vehicle.

(11) A covered individual with a Class A misdemeanor background finding not listed in R381-100-8(10) may be involved with child care when:

(a) 10 or more years have passed since the Class A misdemeanor offense, and

(b) there is no other conviction for the individual in the past 10 years.

(12) A covered individual with a Class A misdemeanor background finding not listed in R381-100-8(10) may be involved with child care for up to 6 months if:

(a) 5 to 9 years have passed since the offense.

(b) there is no other conviction since the Class A misdemeanor offense,

(c) the individual provides to the Department documentation of an active petition for expungement, and

(d) the provider ensures that the individual does not have unsupervised contact with any child in care.

(13) If a petition for expungement is denied, the covered individual shall no longer be involved with child care.

(14) A covered individual shall not be denied if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred 10 or more years before the CCL background screening was conducted.

(15) The Department may rely on the criminal background screening findings as conclusive evidence of the arrest warrant, arrest, charge, or conviction; and the Department may revoke, suspend, or deny a license or employment based on that evidence.

(16) If the provider has a background screening denial, the Department may suspend or deny their license until the reason for the denial is resolved.

(17) If a covered individual has a background screening denial, the Department may prohibit that individual from being employed by the child care program or residing at the facility until the reason for the denial is resolved.

(18) If a covered individual is denied a license or employment based upon the criminal background screening and disagrees with the information provided by the Department of Public Safety, the covered individual may appeal the information as provided in Utah Code, Sections 77-18-10 through 77-18-14 and 77-18a-1.

(19) If a covered individual disagrees with a supported finding on the Department of Human Services Licensing Information System (LIS):

(a) the individual cannot appeal the supported finding to the Department of Health, and

(b) the covered individual may appeal the finding to the Department of Human Services and follow the process established by the Department of Human Services.

(20) Within 48 hours of becoming aware of a covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or supported LIS finding, the provider and the covered

individual shall notify the Department. Failure to notify the Department within 48 hours may result in disciplinary action, including revocation of the license.

(21) The Executive Director of the Department of Health may overturn a background screening denial under the following conditions:

- (a) the background finding is not a felony, and
- (b) the Executive Director determines that the nature of the background finding or mitigating circumstances do not pose a risk to children.

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

(1) There shall be at least 35 square feet of indoor space for each child in care, including the provider's and employees' children.

(2) 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.
- (3) The following areas are not included when measuring indoor space for children's use:
- (a) bathrooms,
  - (b) closets and staff lockers,
  - (c) hallways,
  - (d) lobbies and entryways,
  - (e) kitchens, and
  - (f) staff offices.

(4) The maximum allowed capacity for a child care facility may be limited by local ordinances.

(5) The number of children in care at any given time shall not exceed the capacity identified on the license.

(6) The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint is tested for lead. If lead-based paint is found, the provider shall contact their local health department within 5 working days and follow required procedures for remediation of the lead hazard.

(7) Each room and indoor area that is used by children shall be ventilated by mechanical ventilation, or by windows that open and have screens.

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

(9) All rooms and areas shall have adequate light intensity for the safety of the children and the type of activity being conducted.

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

(11) There shall be a working telephone at the facility, in each vehicle while transporting children, and during offsite activities.

(12) There shall be a working handwashing sink in each classroom or next to each classroom in buildings constructed after 1 July 1997.

(13) Each area where infants or toddlers are cared for shall meet one of the following criteria:

- (a) There shall be 2 working sinks in the room. One sink shall be used exclusively for the preparation of food and bottles and handwashing before food preparation, and the other sink shall be used only for handwashing after diapering and nonfood activities.

(b) There shall be 1 working sink that is used only for handwashing in the room, 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.

(14) For preschoolers and toddlers who are toilet trained, there shall be 1 working toilet and 1 working sink for every fifteen children in the center. For school-age children, there shall be 1 working toilet and 1 working sink for every 25 children in the center.

(15) A bathroom that provides privacy shall be available for use by school-age children.

(16) There shall be an outdoor area that is safely accessible to children.

(17) The outdoor area shall have at least 40 square feet of space for each child using the area at one time.

(18) The total square footage of the outdoor area shall accommodate at least one-third of the enrolled children at one time or shall be at least 1600 square feet.

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

(20) When children are outdoors, they shall be in the enclosed area except during offsite activities.

(21) There shall be no gap 5 by 5 inches or greater in or under the fence or barrier.

(22) Whenever there are children in the outdoor area, there shall be shade available to protect them from excessive sun and heat.

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

(a) the provider shall meet applicable state and local laws and ordinances related to the operation of a swimming pool and maintain the pool in a safe manner; and

(b) when not in use, the pool shall be enclosed within at least a 4-foot-high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises, or covered with an approved enclosure that meets the ASTM F1346 standard.

(24) The provider shall maintain buildings and outdoor areas in good repair and safe condition including:

- (a) ceilings, walls, and floor coverings;
- (b) lighting, bathroom, and other fixtures;
- (c) draperies, blinds, and other window coverings;
- (d) indoor and outdoor play equipment;
- (e) furniture, toys, and materials accessible to the children; and
- (f) entrances, exits, steps, and walkways including keeping them free of ice, snow, and other hazards.

(25) Accessible raised decks or balconies that are 5 feet or higher, and open basement stairwells that are 5 feet or deeper shall have protective barriers that are at least 3 feet high.

(26) If the facility is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, the entire facility shall be inspected and covered individuals in the facility shall comply with all rules, except when all of the following conditions are met:

- (a) there is a separate entrance for the child care program;
- (b) there are no connecting interior doorways that can be used by unauthorized individuals; and
- (c) there is no shared access to the outdoor area used for child care, or a qualified caregiver is present when children are using a shared outdoor area of the facility.

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

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

- (a) maintain at least the number of caregivers and not exceed the number of children in the caregiver-to-child ratio, and
- (b) not exceed the group sizes.

TABLE 1  
Caregiver-to-Child Ratios and Group Sizes

Ages of Children	# of Caregivers	# of Children	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
School-age	1	20	40

(2) As listed in Tables 2-13 for mixed-age groups of children, the provider shall:

- (a) maintain at least the number of caregivers and not exceed the number of children in the caregiver-to-child ratio, and
- (b) not exceed the group sizes.

TABLE 2  
Older Toddlers and Two-year-olds

# Caregivers Required	Age	# Children Present
1	18 to 23 months	1-3
	2	1-6
	Total children: up to 7	
2	18 to 23 months	1-6
	2	1-13
	Total children: up to 14	

TABLE 3  
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 4  
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 5  
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 6  
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 7  
Three-year-olds and Five-to-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 8  
Four-year-olds and Five-to-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 9  
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		

2	2	1-13
	3	1-25
	4	1-25
	5-12	1-25
Total children: up to 28		

TABLE 10

Two-year-olds, Three-year-olds, and Five-to-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 11

Two-year-olds, Four-year-olds, and Five-to-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 12

Three-year-olds, Four-year-olds, and Five-to-twelve-year-olds

# Caregivers Required	Age	# Children Present
1	3	1-11
	4	1-14
	5-12	1-14
Total: up to 13		
2	3	1-23
	4	1-30
	5-12	1-30
Total children: up to 32		

TABLE 13

Two-year-olds, Three-year-olds, Four-year-olds, and Five-to-twelve-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		

(3) Infants and toddlers may be included in mixed-age groups only when 8 or fewer children are present in the group.

(4) If more than 2 children who are younger than 24 months old are included in a mixed-age group, and the group has more than 4 children, there shall be at least 2 caregivers with the group.

(5) During nap time only, the caregiver-to-child ratio may double if:

- (a) all children in the group are at least 18 months old,
- (b) all children in the group are in a restful and nonactive state, and

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

(6) There shall be at least 2 caregivers present when there is only one group of children on the premises and that group has more than 8 children, or more than 2 infants or toddlers.

(7) The provider's or an employee's child age 4 years or older is not counted in the caregiver-to-child ratio when the parent of the child is working at the facility, but the child shall be counted in the group size.

(8) Caregivers who are 16 or 17 years old may be included in the caregiver-to-child ratio, but shall not have unsupervised contact with any child in care.

(9) Volunteers may be included in the caregiver-to-child ratio if they:

- (a) are at least 16 years old,
- (b) receive at least 2.5 hours of preservice training before counting in the caregiver-to-child ratio, and
- (c) complete at least 1.5 hours of child care training for each month they volunteer 40 hours or more.

(10) Student interns who are registered in a high school or college child care course may count in the caregiver-to-child ratio when requirements in R381-100-7(14)(a)-(c) are met.

(11) Guests shall not count in caregiver-to-child ratios.

(12) A center that has been constructed, licensed, and continuously operated since 1 January 2004 is exempt from maximum group size requirements if:

- (a) the caregiver-to-child ratio is maintained, and
- (b) the required square footage for each group of children is maintained.

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

(1) The provider shall ensure that caregivers provide and maintain active supervision of each child at all times.

(2) Active supervision shall include:

(a) for children younger than 5 years of age, the caregiver shall be physically present in the room or area with the children;

(b) for school-age children, the caregiver shall be able to hear the children and be close enough to intervene;

(c) caregivers shall know the number of children in their care at all times;

(d) caregivers' attention shall be focused on the children and not on caregivers' personal interests;

(e) caregivers shall be aware of the entire group of children even when interacting with a smaller group or an individual child; and

(f) caregivers shall position themselves so all children in their assigned group are actively supervised.

(3) When video cameras and mirrors are used to supervise napping children:

(a) the napping room shall be adjacent to a non-napping room;

(b) there shall be a staff member in the non-napping room;

(c) cameras or mirrors shall be positioned so that every child can be seen;

(d) the staff member shall be able to see and hear each child;

(e) there shall be an open door without a barrier, such as a gate, between the napping room and the non-napping room; and

(f) children who wake up shall be moved to the non-napping room.

(4) A blanket or other item shall not be placed over sleeping equipment in such a way that prevents the caregiver from seeing the sleeping child.

(5) Whenever a child is in care, the child's parent shall have access to their child and the areas used to care for their child.

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

(a) each child is signed in and out;

(b) only parents or persons with written authorization from the parent may sign out a child;

(c) photo identification is required if the individual signing the child in or out is unknown to the provider;

(d) persons signing children in and out use identifiers, such as a signature, initials, or electronic code;

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

(f) there is written permission from their parents if school-age children sign themselves in and out.

(7) In an emergency, the caregiver shall accept the parent's verbal authorization to release a child when the caregiver can confirm the identity of:

(a) the person giving verbal authorization, and

(b) the person picking up the child.

(8) A six-week record of each child's daily attendance, including sign-in and sign-out records, shall be kept on-site for review by the Department.

#### **R381-100-12. Child Guidance and Interaction.**

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

(2) The provider shall inform parents, children, and those who interact with the children of the center's behavioral expectations and how any misbehavior will be handled.

(3) Individuals who interact with the children shall guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.

(4) Caregivers shall use gentle, passive restraint with children only when it is needed to stop children from injuring themselves or others, or from destroying property.

(5) Interactions with the children shall not include:

(a) any form of corporal punishment or any action that produces physical pain or discomfort such as hitting, spanking, shaking, biting, or pinching;

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

(c) shouting at children;

(d) any form of emotional abuse;

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

(f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.

(6) Any person who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in Utah Code Section 62A-4a-403 and Section 62A-4a-411.

#### **R381-100-13. Child Safety and Injury Prevention.**

(1) The building, outdoor area, toys, and equipment shall be used in a safe manner and as intended by the manufacturer to prevent injury to children.

(2) Harmful objects and hazards, such as the following, shall be inaccessible to children:

(a) poisonous and harmful plants;

(b) sharp objects, edges, corners, or points that could cut or puncture skin;

(c) for children younger than 3 years of age, choking hazards;

(d) strangulation hazards such as ropes, cords, chains, and wires attached to a structure and long enough to encircle a child's neck;

(e) tripping hazards such as unsecured flooring, rugs with curled edges, or cords in walkways;

(f) for children younger than 5 years of age, empty plastic bags large enough for a child's head to fit inside, latex gloves, and balloons; and

(g) standing water that measures 2 inches or deeper and 5 by 5 inches or greater in diameter.

(3) Toxic or hazardous chemicals such as cleaners, insecticides, lawn products, and flammable materials shall be:

(a) inaccessible to children,

(b) used according to manufacturer instructions, and

(c) stored in containers labeled with their contents.

(4) Items and substances that could burn a child or start a fire shall be inaccessible, such as:

(a) matches or cigarette lighters;

(b) open flames;

(c) hot wax or other substances; and

(d) when in use, portable space heaters, wood burning stoves, and fireplaces of all types.

(5) Children shall be protected from items that cause electrical shock such as:

(a) live electrical wires; and

(b) for children younger than 5 years of age, electrical outlets and surge protectors without protective caps or safety devices when not in use.

(6) Unless used and stored in compliance with the Utah Concealed Weapons Act or as otherwise allowed by law, firearms such as guns, muzzles loaders, rifles, shotguns, hand guns, pistols, and automatic guns shall:

\_\_\_\_\_ (a) be locked in a cabinet or area with a key, combination lock, or fingerprint lock; and

\_\_\_\_\_ (b) stored unloaded and separate from ammunition.

\_\_\_\_\_ (7) Weapons such as paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace shall be inaccessible to children.

\_\_\_\_\_ (8) Alcohol, illegal substances, and sexually explicit material shall be inaccessible, and shall not be used on the premises, during offsite activities, or in center vehicles any time a child is in care.

\_\_\_\_\_ (9) An outdoor source of drinking water, such as individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain shall be available to each child whenever the outside temperature is 75 degrees or higher.

\_\_\_\_\_ (10) Areas accessible to children shall be free of heavy or unstable objects that children could pull down on themselves, such as furniture, unsecured televisions, and standing ladders.

\_\_\_\_\_ (11) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.

\_\_\_\_\_ (12) Highchairs shall have T-shaped safety straps or devices that are used whenever a child is in the chair.

\_\_\_\_\_ (13) Infant walkers with wheels shall be inaccessible to children.

\_\_\_\_\_ (14) In compliance with the Utah Indoor Clean Air Act, tobacco, e-cigarettes, e-juice, e-liquids, and similar products shall be inaccessible and not used:

\_\_\_\_\_ (a) in the facility or any other building when a child is in care.

\_\_\_\_\_ (b) in any vehicle that is being used to transport a child in care.

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

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

#### **R381-100-14. Emergency Preparedness and Response.**

\_\_\_\_\_ (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 or in an area clearly visible to anyone needing the information.

\_\_\_\_\_ (2) The provider shall keep first-aid supplies in the center, including at least antiseptic, bandages, and tweezers.

\_\_\_\_\_ (3) The provider shall conduct fire evacuation drills monthly. Drills shall include a complete exit of all children, staff, and volunteers from the building.

\_\_\_\_\_ (4) The provider shall document each fire drill, 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.

\_\_\_\_\_ (5) The provider shall conduct drills for disasters other than fires at least once every 6 months.

\_\_\_\_\_ (6) The provider shall document each disaster drill, including:

\_\_\_\_\_ (a) the type of disaster, such as earthquake, flood, prolonged power or water outage, or 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.

\_\_\_\_\_ (7) The provider shall vary the days and times on which fire and other disaster drills are held.

\_\_\_\_\_ (8) The provider shall keep documentation of the previous 12 months of fire and disaster drills on-site for review by the Department.

\_\_\_\_\_ (9) In case of an emergency or disaster, the provider and employees shall follow procedures as outlined in the center's health and safety plan.

\_\_\_\_\_ (10) The provider shall give parents a written report of every incident, accident, or injury involving their child:

\_\_\_\_\_ (a) the caregivers involved, the center director, and the person picking up the child shall sign the report on the day of occurrence; and

\_\_\_\_\_ (b) if school-age children sign themselves out of the center, a copy of the report shall be sent to the parent on the day following the occurrence.

\_\_\_\_\_ (11) If a child is injured and the injury appears serious but not life-threatening, the child's parent shall be contacted immediately.

\_\_\_\_\_ (12) 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:

\_\_\_\_\_ (a) emergency personnel shall be called immediately;

\_\_\_\_\_ (b) after emergency personnel are called, then the parent shall be contacted; and

\_\_\_\_\_ (c) if the parent cannot be reached, staff shall try to contact the child's emergency contact person.

\_\_\_\_\_ (13) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall:

\_\_\_\_\_ (a) submit a completed accident report form to the Department within the next business day of the incident; or

\_\_\_\_\_ (b) contact the Department within the next business day, and submit a completed accident report form within 5 business days of the incident.

\_\_\_\_\_ (14) The provider shall keep a six-week record of every incident, accident, and injury report on-site for review by the Department.

#### **R381-100-15. Health and Infection Control.**

\_\_\_\_\_ (1) The building, furnishings, equipment, and outdoor area shall be kept clean and sanitary including:

\_\_\_\_\_ (a) ceilings, walls, and flooring shall be clean and free of spills, dirt, and grime;

\_\_\_\_\_ (b) areas and equipment used for the storage, preparation, and service of food shall be clean and sanitary;

\_\_\_\_\_ (c) surfaces used by children shall be free of rotting food or a build-up of food;

\_\_\_\_\_ (d) the building and grounds shall be free of a build-up of litter, trash, and garbage; and

\_\_\_\_\_ (e) the facility shall be free of animal feces.

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

\_\_\_\_\_ (3) All toys and materials including those used by infants and toddlers shall be cleaned:

\_\_\_\_\_ (a) at least weekly or more often if needed,

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

\_\_\_\_\_ (c) after being contaminated by a body fluid.



(4) Fabric toys and items such as stuffed animals, cloth dolls, pillows, and dress-up clothes shall be machine washable and washed weekly, and as needed.

(5) Highchair trays shall be cleaned and sanitized before each use.

(6) Water play tables or tubs shall be cleaned and sanitized daily, if used by the children.

(7) Bathroom surfaces including toilets, sinks, faucets, and counters shall be cleaned and sanitized each day.

(8) Potty chairs shall be cleaned and sanitized after each use.

(9) Toilet paper shall be accessible to children and kept in a dispenser.

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

(11) Staff and volunteers shall wash their hands thoroughly with liquid soap and running water at required times including:

(a) before handling or preparing food or bottles.

(b) before and after eating meals and snacks or feeding a child.

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

(d) after contact with a body fluid.

(e) when coming in from outdoors, and

(f) after cleaning up or taking out garbage.

(12) Caregivers shall teach children how to wash their hands thoroughly and shall oversee handwashing whenever possible.

(13) The provider shall ensure that children wash their hands thoroughly with liquid soap and running water at required times including:

(a) before and after eating meals and snacks.

(b) after using the toilet.

(c) after contact with a body fluid.

(d) before using a water play table or tub, and

(e) when coming in from outdoors.

(14) Only single-use towels from a covered dispenser or an electric hand dryer may be used to dry hands.

(15) Personal hygiene items, such as toothbrushes, combs, and hair accessories, shall not be shared and shall be stored so they do not touch each other, or they shall be sanitized between each use.

(16) Pacifiers, bottles, and nondisposable drinking cups shall:

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

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

(17) A child's clothing shall be promptly changed if the child has a toileting accident.

(18) Children's clothing that is wet or soiled from a body fluid shall:

(a) not be rinsed or washed at the center.

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

(c) be returned to the parent.

(19) Staff shall use a portable body fluid cleanup kit for cleaning up body fluid spills. The kit shall be:

(a) in a place easily accessed by staff, and

(b) restocked as needed.

(20) Staff shall take precautions when cleaning floors, furniture, and other surfaces contaminated by blood, urine, feces, or vomit. Except for diaper changes and toileting accidents, staff shall:

(a) wear waterproof gloves;

(b) clean the surface using a detergent solution;

(c) rinse the surface with clean water;

(d) sanitize the surface;

(e) throw away in a leakproof plastic bag the disposable materials, such as paper towels, that were used to clean up the body fluid;

(f) wash and sanitize any nondisposable materials used to clean up the body fluid, such as cleaning cloths, mops, or reusable rubber gloves, before reusing them; and

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

(21) A child who is ill with an infectious disease may not be cared for at the center except when the child shows signs of illness after arriving at the center.

(22) When a child becomes ill while in care:

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

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

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

(24) The provider shall post a notice at the center when any staff member or child has an infectious disease or parasite. The notice shall:

(a) not disclose any personal identifiable information.

(b) be posted in a conspicuous place where it can be seen by all parents.

(c) be posted and dated on the same day that the disease or parasite is discovered, and

(d) remain posted for at least 5 days.

(25) To prevent contamination of food, the spread of foodborne illnesses, and other diseases:

(a) individuals who prepare food in the kitchen shall not change diapers or help in toileting children;

(b) caregivers who care for diapered children shall only prepare food for the children in their care, and they shall not prepare food outside of the room used by the diapered children or prepare food for other children and adults in the facility; and

(c) individuals with an infectious disease or showing symptoms such as diarrhea, fever, and vomit shall not prepare or serve foods.

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

(1) The provider shall ensure that each child age 2 years and older is offered a meal or snack at least once every 3 hours.

(2) When food for children's meals and/or snacks is supplied by the provider:

(a) the meal service shall meet local health department food service regulations;

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

(c) the provider shall use the CACFP menus, the standard Department-approved menus, 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;

(d) the current week's menu shall be posted for review by parents and the Department; and

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

(3) The person who serves food to children shall:

(a) be aware of the children in their assigned group who have food allergies or sensitivities, and

(b) ensure that the children are not served the food or drink they are allergic or sensitive to.

(4) Children's food shall be served on dishes, napkins, or sanitary highchair trays, except an individual finger food, such as a cracker, that may be placed directly in a child's hand. Food shall not be placed on a bare table.

(5) Food and drink brought in by parents for their child's use shall be:

(a) labeled with the child's name,

(b) refrigerated if needed, and

(c) consumed only by that child.

#### **R381-100-17. Medications.**

(1) Nonrefrigerated medications shall be stored at least 48 inches above the floor or shall be locked.

(2) Refrigerated medications shall be stored at least 36 inches above the floor or shall be locked, and if liquid, they shall be stored in a separate leakproof container.

(3) All over-the-counter and prescription medications supplied by parents 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.

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

(5) The medication permission form shall include:

(a) the name of the child,

(b) the name of the medication,

(c) written instructions for administration, and

(d) the parent signature and the date signed.

(6) The instructions for administering the medication shall include:

(a) the dosage,

(b) how the medication will be given,

(c) the times and dates to administer the medication, and

(d) the disease or condition being treated.

(7) If the provider supplies an over-the-counter medication for children's use, the medication shall not be administered to any child without previous parental consent for each instance it is given. The consent shall be:

(a) prior written consent; or

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

(8) The caregiver administering the medication shall:

(a) wash their hands.

(b) check the medication label to confirm the child's name if the parent supplied the medication.

(c) check the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer, and

(d) administer the medication.

(9) Immediately after administering a medication, the caregiver giving the medication shall record the following information:

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

(b) any errors in administration or adverse reactions; and

(c) their signature or initials.

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

(11) 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 before the time the medication needs to be given.

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

#### **R381-100-18. Activities.**

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

(2) Daily activities shall include outdoor play as weather and air quality allow.

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

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

(a) activities that support children's healthy development, and

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

(5) Toys, materials, and equipment needed to support children's healthy development shall be available to the children.

(6) Except for occasional special events, children's screen time on media such as television, cell phones, tablets, and computers shall:

(a) not be allowed for children 0 to 17 months old;

(b) be limited for children 18 months to 4 years old to 1 hour per day, or 5 hours per week with a maximum screen time of 2 hours per activity; and

(c) be part of a media plan that addresses the needs of children 5 to 12 years old.

(7) If swimming activities are offered or if wading pools are used:

(a) the provider shall obtain parental permission before each child in care uses the pool;

(b) caregivers shall stay at the pool supervising whenever a child is in the pool or has access to the pool, and whenever a wading pool has water in it;

(c) diapered children shall wear swim diapers whenever they are in the pool;

(d) wading pools shall be emptied and sanitized after use by each group of children;

(e) if the pool is over 4 feet deep, there shall be a lifeguard on duty who is certified by the Red Cross or other approved certification program any time children have access to the pool; and

(f) lifeguards and pool personnel shall not count toward the caregiver-to-child ratio.

(8) If offsite activities are offered:

(a) the provider shall obtain written parental consent before each activity;

(b) the required caregiver-to-child ratio and supervision shall be maintained during the entire activity;

(c) a first aid kit shall be available;

(d) children shall wear or carry with them the name and phone number of the center;

(e) children's names shall not be used on nametags, t-shirts, or in other visible ways; and

(f) there shall be a way for caregivers and children to wash their hands with soap and water, or if there is no source of running water, caregivers and children shall clean their hands with wet wipes and hand sanitizer.

(9) On every offsite activity, caregivers shall take the written emergency information and releases for each child in the group. The information shall include:

(a) the child's name,

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

(c) the name and phone number of a person to notify in case of an emergency if the parent cannot be contacted,

(d) the names of people authorized by the parents to pick up the child, and

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

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

(1) The provider shall ensure that children using play equipment use it safely and in the manner intended by the manufacturer.

(2) The designated play surface on stationary play equipment used by infants or toddlers shall not exceed 3 feet in height.

(3) Swings used by infants or toddlers shall have enclosed seats.

(4) Stationary play equipment shall have a surrounding use zone that extends from the outermost edge of the equipment. With the exception of swings, stationary play equipment that is:

(a) used by infants or toddlers shall have at least a 3-foot use zone if any designated play surface is higher than 18 inches,

(b) used by preschoolers shall have at least a 6-foot use zone if any designated play surface is higher than 20 inches, and

(c) used by school-age children shall have at least a 6-foot use zone if any designated play surface is higher than 30 inches.

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

(6) The use zone in the front and rear of a single-axis, swing shall extend at least twice the distance of the swing pivot point to the ground.

(7) The use zone for the sides of a single-axis swing shall extend:

(a) at least 3 feet from the outermost edge of the swing if used by infants or toddlers, or

(b) at least 6 feet from the outermost edge of the swing if used by preschoolers or school-age children.

(8) The use zone for a multi-axis swing, such as a tire swing, shall extend:

(a) at least the measurement of the suspending rope or chain plus 3 feet, if the swing is used by infants or toddlers; or

(b) at least the measurement of the suspending rope or chain plus 6 feet, if the swing is used by preschoolers or school-age children.

(9) The use zone for a merry-go-round shall extend:

(a) at least 3 feet in all directions from its outermost edge if the merry-go-round is used by infants or toddlers, or

(b) at least 6 feet in all directions from its outermost edge if the merry-go-round is used by preschoolers or school-age children.

(10) The use zone for a spring rocker shall extend:

(a) at least 3 feet from the outermost edge of the rocker when at rest; or

(b) at least 6 feet from the outermost edge of the rocker when at rest if the seat is higher than 20 inches, and the rocker is used by preschoolers or school-age children.

(11) The following use zones shall not overlap the use zone of any other piece of play equipment:

(a) the use zone in front of a slide;

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

(c) the use zone of a multi-axis swing; and

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

(12) Unless prohibited in R381-100-19(11), the use zones of play equipment may overlap when:

(a) the equipment is used by infants or toddlers, and there is at least 3 feet between the pieces of equipment; or

(b) the equipment is used by preschoolers or school-age children and there is at least 6 feet between the pieces of equipment if the designated play surface is 30 inches or lower, or there is at least 9 feet between the pieces of equipment if the designated play surface is higher than 30 inches.

(13) Stationary play equipment without moving parts children sit or stand on shall not be placed on concrete, asphalt, dirt, a bare floor, or any other hard surface, but may be placed on grass or other cushioning, if the highest designated play surface measures between:

(a) 6 to 18 inches if used by infants or toddlers,

(b) 6 to 20 inches if used by preschoolers, and

(c) 6 to 30 inches if used by school-age children.

(14) Protective cushioning shall cover the entire surface of each required use zone and its depth or thickness shall be determined by the highest designated play surface of the equipment.

(15) If sand, gravel, or shredded tires are used as protective cushioning, the depth of the material shall meet the CPSC guidelines in Table 14.

(a) the provider shall ensure that the cushioning is periodically checked for compaction and loosened to the depth listed in Table 14 if compacted; and

(b) 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 14  
Depths of Protective Cushioning Required  
for Sand, Gravel, and Shredded Tires

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Fine		Medium		Shredded Tires
	Sand	Gravel	Gravel	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'	6"	9"	6"	9"	6"
Over 6' up to 7'	9"	not allowed	9"	not allowed	6"
Over 7' up to 8'	9"	not allowed	9"	not allowed	6"
Over 8' up to 9'	9"	not allowed	9"	not allowed	6"
Over 9' up to 10'	not allowed	not allowed	9"	not allowed	6"
Over 10' up to 11'	not allowed	not allowed	not allowed	not allowed	6"
Over 11' up to 12'	not allowed	not allowed	not allowed	not allowed	6"

(16) If shredded wood products are used as protective cushioning:

(a) the provider shall keep on-site for review by the Department documentation from the manufacturer that the wood product meets ASTM Specification F1292.

(b) there shall be adequate drainage under the material, and

(c) the depth of the shredded wood shall meet the CPSC guidelines in Table 15.

TABLE 15  
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"	6"	9"	9"
Over 7' up to 8'	9"	9"	9"	9"
Over 8' up to 9'	9"	9"	9"	9"
Over 9' up to 10'	9"	9"	9"	9"
Over 10' up to 11'	9"	9"	9"	9"
Over 11'	9"	not allowed	not allowed	not allowed

(17) If a unitary cushioning is used, the provider shall ensure that the material meets the standard established in ASTM Specification F1292. The provider shall maintain on-site for review by the Department documentation from the manufacturer that the material meets these specifications.

(18) If a unitary cushioning is used, the provider 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.

(19) A play equipment platform that is more than 18 inches above the floor or ground and used by infants or toddlers shall have a protective barrier that is at least 24 inches high.

(20) A play equipment platform that is more than 30 inches above the floor or ground and used by preschoolers shall have a protective barrier that is at least 29 inches high.

(21) A play equipment platform that is more than 48 inches above the floor or ground and used by school-age children shall have a protective barrier that is at least 38 inches high.

(22) There shall be no gap greater than 3-1/2 inches in or under a required protective barrier on a play equipment platform.

(23) Stationary play equipment shall be stable and securely anchored.

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

(25) There shall be no heavy metal swings, such as animal-shaped swings, accessible to children.

(26) There shall be no entrapment hazards on or within the use zone of any piece of stationary play equipment.

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

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

(29) 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.

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

If transportation services are offered:

(1) For each child being transported, the provider shall have a transportation permission form:

(a) signed by the parent, and

(b) on-site for review by the Department.

(2) Each vehicle used for transporting children shall:

(a) be enclosed with a roof or top,

(b) be equipped with safety restraints,

(c) have a current vehicle registration,

(d) be maintained in a safe and clean condition,

(e) contain a first aid kit, and

(f) contain a body fluid clean up kit.

(3) The safety restraints in each vehicle that transports children shall:

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

(b) be properly installed; and

(c) be in safe condition and working order.

(4) The driver of each vehicle who is transporting children shall:

(a) be at least 18 years old;

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

(c) have with them the written emergency contact information for each child being transported;

(d) ensure that each child being transported is in an individual safety restraint that is used according to Utah law;

(e) ensure that the inside vehicle temperature is between 60-85 degrees Fahrenheit;

(f) never leave a child in the vehicle unattended by an adult;

(g) ensure that children stay seated while the vehicle is moving;

(h) never leave the keys in the ignition when not in the driver's seat; and

(i) ensure that the vehicle is locked during transport.

(5) When the provider walks or uses public transportation to transport children to or from the facility, the provider shall ensure that:

(a) each child being transported has a completed transportation permission form signed by their parent,

(b) a caregiver goes with the children and actively supervises them,

(c) the caregiver-to-child ratio is maintained, and

(d) caregivers take each child's written emergency contact information and releases with them.

### **R381-100-21. Animals.**

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

(2) There shall be no animal on the premises that:

(a) is naturally aggressive;

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

(c) has a history of biting even one person.

(3) Animals at the facility shall be clean and free of obvious disease or health problems that could adversely affect children.

(4) There shall be no animal or animal equipment in food preparation or eating areas.

(5) Children younger than 5 years of age shall not assist with the cleaning of animals or animal cages, pens, or equipment.

(6) If school-age children help in the cleaning of animals or animal equipment, the children shall wash their hands immediately after cleaning the animal or equipment.

(7) Children and staff shall wash their hands immediately after playing with or touching animals, including reptiles and amphibians.

(8) Dogs, cats, and ferrets that are housed at the facility shall have current rabies vaccinations.

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

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

(1) The provider shall offer children in care a daily opportunity for rest or sleep in an environment with subdued lighting, a low noise level, and freedom from distractions.

(2) Nap or rest times shall not be scheduled for more than 2 hours daily.

(3) A separate crib, cot, mat, or other sleeping equipment shall be used for each child during nap times.

(4) Sleeping equipment shall be kept in good repair, including mats and mattresses that shall have smooth, waterproof surfaces.

(5) Each crib shall:

(a) have a tight-fitting mattress;

(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, or at least 12 inches from the top of the mattress

to the top of the crib rail if the child using the crib cannot sit up without assistance;

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

(e) meet CPSC standards.

(6) When in use, sleeping equipment such as cribs, cots, and mats shall be placed at least 2 feet apart.

(7) Sleeping equipment shall not block exits.

(8) During nap time, a sheet and blanket or acceptable alternative shall be made available to each child 12 months or older. These items shall be:

(a) clearly assigned to one child,

(b) stored separately from other children's bedding, and

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

(9) Sleeping equipment that is clearly assigned to and used by an individual child shall be cleaned and sanitized as needed and at least weekly.

(10) Sleeping equipment that is not clearly assigned to and used by an individual child shall be cleaned and sanitized before each use.

(11) The provider shall store sleeping equipment so that:

(a) the surfaces children sleep on do not touch each other, or

(b) the provider shall clean and sanitize sleeping equipment before each use.

### **R381-100-23. Diapering.**

If the provider accepts children who wear diapers:

(1) The provider shall post diapering procedures at each diapering station and ensure that they are followed.

(2) Caregivers shall ensure that each child's diaper is:

(a) checked at least once every 2 hours,

(b) promptly changed when wet or soiled, and

(c) checked as soon as a sleeping child awakens.

(3) The diapering area shall not be located in a food preparation or eating area.

(4) Caregivers shall change children's diapers at a diapering station. Diapers shall not be changed on surfaces used for any other purpose.

(5) The diapering surface shall be smooth, waterproof, and in good repair.

(6) Each diapering station shall be equipped with railings to prevent a child from falling when being diapered.

(7) Caregivers shall not leave children unattended on the diapering surface.

(8) Caregivers shall clean and sanitize the diapering surface after each diaper change, or use a disposable, waterproof diapering surface that is thrown away after each diaper change.

(9) Caregivers shall wash their hands after each diaper change.

(10) Caregivers shall place wet and soiled disposable diapers:

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

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

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

(11) Indoor containers where wet and soiled diapers are placed shall be cleaned and sanitized each day.

(12) If cloth diapers are used:  
(a) they shall not be rinsed at the facility; and  
(b) they shall be placed directly into a leakproof container that is inaccessible to any child and labeled with the child's name, or placed in a leakproof diapering service container.

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

If the provider cares for infants or toddlers:

(1) Each awake infant and toddler shall receive positive physical and verbal interaction with a caregiver at least once every 20 minutes.

(2) To stimulate their healthy development, the provider shall ensure that infants receive daily interactions with adults; including on-the-ground interaction and closely supervised time spent in the prone position for infants less than 6 months of age.

(3) Infant and toddler areas shall not be used to pass through or access other indoor and outdoor areas.

(4) Infants and toddlers shall play in the same enclosed outdoor space with older children only when there are 8 or fewer children in the group.

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

(6) For their healthy development, safe toys shall be available for infants and toddlers. There shall be enough toys accessible to each infant and toddler in the group to engage in play.

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

(8) An awake infant or toddler shall not be confined for more than 30 minutes in any piece of equipment, such as a swing, high chair, crib, playpen, or other similar piece of equipment.

(9) 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.

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

(11) Each infant and toddler shall be allowed to eat and sleep on their own schedule.

(12) Baby food, formula, or breast milk that is brought from home for an individual child's use shall 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 for unprepared powdered formula or dry food.

(13) If an infant is unable to sit upright and hold their own bottle, a caregiver shall hold the infant during bottle feeding. Bottles shall not be propped.

(14) The caregiver shall swirl and test warm bottles for temperature before feeding to children.

(15) Formula and milk, including breast milk, shall be discarded after feeding or within 2 hours of starting a feeding.

(16) Caregivers shall cut solid foods for infants into pieces no larger than 1/4 inch in diameter, and shall cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.

(17) Infants shall sleep in equipment designed for sleep, such as a crib, bassinet, porta-crib or play pen. An infant shall not be placed to sleep on a mat, cot, pillow, bouncer, swing, car seat, or other

similar piece of equipment unless the provider has written permission from the infant's parent.

(18) Infants shall be placed on their backs for sleeping unless there is documentation from a health care provider requiring a different sleep position.

(19) Caregivers shall document each infant's eating and sleeping patterns each day. The record shall:

(a) be completed within an hour of each feeding or nap, and

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

(20) Within an hour of each infant or toddler's diaper change, caregivers shall record:

(a) the infant or toddler's name,

(b) the time of the diaper change, and

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

(21) The provider shall maintain on-site for review by the Department a six-week record of:

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

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

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

**Date of Enactment or Last Substantive Amendment: ~~[March 30, 2016]~~2017**

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

**Health, Disease Control and  
Prevention, Environmental Services  
R392-103  
Food Handler Training and Certificate**

**NOTICE OF PROPOSED RULE**

(Repeal and Reenact)

DAR FILE NO.: 42017

FILED: 08/14/2017

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amendments to Rule R392-103 remove outdated language and provide technical and conforming changes in accordance with the Rulewriting Manual for Utah. Training providers and local health departments have indicated a need for an improvement in the food handler applicant data transfer process. Advances in the recognition of food allergen dangers have facilitated a need to include requirements for food allergy training provisions to improve awareness of this important public health topic.

SUMMARY OF THE RULE OR CHANGE: Defined important commonly used terms, and modified the use of interchangeable and ambiguous terminology. Rewording of Section R392-103-1 for clarity. Section R392-103-2 is a new section recently added to specify the statute under which this rule is authorized. In Section R392-103-3, added definitions for: Certificate, Cross Contact, Cross Contamination, Double

Handwash, Food Handler Applicant, Food Establishment, Local Health Department, and Person in Charge. Also amended the definitions for: food handler to include those working in food trucks, and approved Food Handler Training Provider to be simply "Training Provider". In Section R392-103-4, nonsubstantive changes include the rewording and restructuring of this section to clarify the intent to be more in line with the authorizing statute and the Rulewriting Manual for Utah. Requirements concerning when and how soon food handlers must receive a permit/certificate have not changed. The substantive changes include: addressing replacement of lost permits; only issued by local health departments who may charge a fee. Instead of five days, providers now have seven days to submit food handler applicant data to the local health department. Transmission of this information shall be emailed and accepted by the local health department. Transmission of this information shall be on a form approved by the Department. No one may make changes to what is required in the form unless approved by the Department. Applicants may have their permits mailed to the address of their choosing instead of to their home residence. In Section R392-103-5, no substantive changes made to this section. In Section R392-103-6, nonsubstantive changes include rewording and restructuring of this section. This reformatting makes clear that training needs to be in-line with the currently adopted food code. The four content sections have also been reworded for clarity. The content required has not changed, but this new language is less ambiguous and makes clear what is expected to be taught. These changes in no way proscribe how the content should be taught, but merely make it more clear what should be in a training program. A few items have been moved to different content sections, such as those items concerning unapproved source, to where they fit better. These content sections have been retitled for brevity and still are aligned with the CDC risk factors. Substantive changes include: adding a requirement to: define and give examples of the major food allergens, describe symptoms major food allergens may cause in an individual having an allergic reaction, identify steps to prevent contaminating food and food contact surfaces when handling items recognized as sources of major food allergens. Requiring instructors to have education in food safety equivalent to that of a food safety manager certification. This equivalency can be determined at the local health department for local classes, or by the Department for classes affecting students statewide. A representative of an online course must show the same equivalency. In Section R392-103-7, nonsubstantive changes include rewording for clarity. Substantive changes include: requiring training providers to inform students at the beginning of the course that permits are good for three years statewide and how to get a replacement permit; and being specific on how to prevent duplication of certificates. In Section R392-103-8, a statement has been added to state that currently approved providers have until three years after these changes become effective to come into full compliance. Subsection R392-103-8(2) has been removed as it is no longer relevant. A more descriptive list of items to be included with initial applications for approval has been added.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 26-1-30 and Section 26-15-5

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** Repealing and reenacting Rule R392-103 will likely not result in a cost or savings to the state budget.

◆ **LOCAL GOVERNMENTS:** Repealing and reenacting Rule R392-103 will likely result in a savings of \$250 per year to the local government, particularly to the local health departments, due primarily to an improvement in the food handler applicant data transfer process. No costs to local governments are anticipated.

◆ **SMALL BUSINESSES:** Repealing and reenacting Rule R392-103 will likely result in a fiscal impact to small business. There are six small businesses identified in Utah that will be impacted by these changes. The approximate expected cost to each affected business in the first year after implementation of the proposed rule is \$795 with an ongoing cost of \$45 for each year thereafter. One-time costs include those resulting from the development of new training information regarding food allergens, as well as the implementation of new food handler applicant data transfer protocols. Training providers will incur ongoing costs from obtaining and renewing food protection management training for instructors.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Repealing and reenacting Rule R392-103 will likely result in a fiscal impact to business. There are two larger businesses identified in Utah that will be impacted by these changes. The expected cost to each affected business in the first year after implementation of the proposed rule is \$795 with an ongoing cost of \$45 for each year thereafter. One-time costs include those resulting from the development of new training information regarding food allergens as well as the implementation of new food handler applicant data transfer protocols. Training providers will incur ongoing costs from obtaining and renewing food protection management training for instructors.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** No one specific person will be affected by this rule change.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:**

There will be an impact on both local government and business. A small number of business will see a small fiscal impact during the first year of implementation due to the cost of implementing training regarding food allergens and updating data transfer protocols and then a very small annual ongoing cost for training instructors. The proposed changes will likely result in a savings of \$250 per year to the LHDs due to improvement in the food handler applicant data transfer process. There are six small businesses and two larger business identified in Utah that will be impacted by these changes. The approximate expected cost to each affected business in the first year after implementation of the proposed rule is \$795 with an ongoing cost of \$45 for each year

thereafter. One-time costs include those resulting from the development of new training information regarding food allergens, as well as the implementation of new food handler applicant data transfer protocols. Training providers will incur ongoing costs from obtaining and renewing food protection management training for instructors.

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

HEALTH  
DISEASE CONTROL AND PREVENTION,  
ENVIRONMENTAL SERVICES  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY, UT 84116-3231  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Chris Nelson by phone at 801-538-6739, or by Internet E-mail at [chrisnelson@utah.gov](mailto:chrisnelson@utah.gov) or mail PO Box 142104, Salt Lake City, UT 84114-2104

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/02/2017

THIS RULE MAY BECOME EFFECTIVE ON: 10/09/2017

AUTHORIZED BY: Joseph Miner, MD, Executive Director

## **R392. Health, Disease Control and Prevention, Environmental Services.**

### **R392-103. Food Handler Training and Certificate.**

#### **~~R392-103-1. Purpose.~~**

~~(1) This rule requires that food handler training, testing, issuing of a food handler certificate, and fees follow uniform statewide standards.~~

~~(2) The Centers for Disease Control and Prevention has identified five risk factors associated with food-borne illness outbreaks. Four of the five risk factors result from improper handling of food by food handlers or poor personal hygiene of food handlers.~~

~~(3) Proper training allows food handlers the ability to apply the knowledge gained to prevent food-borne diseases. Testing of food handlers confirms that knowledge of correct food handling techniques was gained. A food handler permit that is recognized statewide provides a tool for the Department to verify that food handlers have received state approved training and testing.~~

~~(4) State and local monitoring of this process is critical to protect the public. Coordination between this process and inspection of regulated facilities is necessary to quickly and effectively respond to identified risks. Recognizing the essential work of state and local public health officials, with accountability to state and local elected officials, maintains control and responsiveness to public health concerns.~~

#### **R392-103-2. Definitions.**

~~(1) "Department" means the Utah Department of Health.~~

~~(2) "Executive Director" means the Executive Director of the Utah Department of Health or designated representative.~~

~~(3) "Food Handler" means a person who works with unpackaged food, food equipment or utensil, or food-contact surfaces for a food service establishment as defined in R392-100.~~

~~(4) "Food Handler Permit" means a permit issued by a local health department to allow a person to work as a food handler.~~

~~(5) "Food Handler Certificate" means the documentation of a certificate of completion of food handler training indicating passing of a Department approved exam before a food handler permit is issued.~~

~~(6) "Independent Instructional Design and Testing Expert" means a person who has received training and has a graduate degree from an accredited University with a certification in psychometrics and expertise in Instructional Design.~~

~~(7) "Local Health Officer" means the director of the jurisdictional local health department as defined in 26A, Chapter 1, or his designated representative.~~

~~(8) "Approved Food Handler Training Provider" means an entity that provides a food handler training program approved by the Utah Department of Health.~~

### **R392-103-3. Food Handler Permit Issuing Procedure, Reciprocity, and Renewal.**

~~(1) A food handler must have a valid food handler permit issued by a local health officer in the local health district where the food handler resides at the time the certificate is issued. The local health officer shall issue a food handler permit by mail or in person to a food handler that has a valid certificate indicating they have taken a course and passed an exam from an approved food handler training provider unless R392-103-4(1)(a) or (b) applies.~~

~~(2) After a food handler applicant passes a Department approved exam, an approved food handler training provider shall issue a food handler a certificate of completion and transmit electronically or by mail notification of the certificate to the local health department where the applicant resides. To inhibit fraud, each certificate issued shall be uniquely numbered by the food handler training provider using their own numbering system. The certificate shall contain the name of the person to whom the certificate is issued, the date of issuing, and also list the food handler training provider who issued the certificate. The certificate shall be valid for 30 days toward getting a food handler permit and shall be valid statewide as proof of training and testing, allowing the person to work as a food handler for 30 days from the initial date of employment. The food handler applicant must have a food handler permit within 30 days of the date of initial employment.~~

~~(3) The approved food handler training provider shall send notification to the local health department where an applicant resides that a certificate has been issued. This notification must take place within 5 business days after the applicant passes the exam. The local health department may use this information at any time to verify that an applicant has received a certificate from an approved food handler training provider.~~

~~(4) Local health departments shall accept food handler permits issued under authority of this rule until the date of expiration, revocation, or suspension of the food handler permit.~~

~~(5) A person may obtain a food handler permit by providing to the local health department a valid certificate of completion of an approved food handler training program, completing a local health department approved application either through the food handler~~



training provider or at a local health department, and paying a food handler permit fee. The fee for the permit shall be no more than \$15 and shall be uniform statewide.

(6) Food handler permits issued shall contain the following information:

- (a) "Utah Food Handler Permit" as the title;
- (b) Name of the food handler;
- (c) Expiration Date;
- (d) Identification number which begins with a two letter unique identifier of the training provider and up to 8 characters following the two letter identifier;
- (e) Name of health department who issued the permit;
- (f) "This Permit is Not a Legal Form of Identification" stated at the bottom of the permit;
- (g) Utah State seal; and
- (h) On the back of the permit, the following information must be presented:

(i) Permit must be presented upon request by the health authority;

(ii) Permit may be revoked for cause; and

(iii) No other food handler permit is approved in the State of Utah.

(7) Except when Subsections R392-103-3(11) through (13) apply, a food handler must possess a valid food handler permit issued by a local health officer before being allowed to handle food served to the public.

(8) With the exception of temporary events, food service establishments shall have a copy of the food handler permit of each employee that works in the establishment available upon request of the local health department inspector. If the food handler is working at a temporary event, at least one person must have a food handler permit to show to the health authority, if asked, but does not have to have a copy of the permit in an establishment file.

(9) Food handler permits shall be valid for 3 years from the date of issuance. Food handler permits must be renewed every 3 years by completing an approved food handler training course, passing an exam administered by an approved food handler training provider, and receiving a food handler permit from the local health department.

(10) Food handlers must successfully complete a training course within 14 days after the day on which the person begins employment, unless they already have a current certificate or food handler permit, and shall not handle food until they have received a certificate of completion qualifying them for a food handler permit.

(11) The local health officer shall accept a food handler permit issued to a back country outfitter by the United States Department of the Interior, or by a public health authority in Arizona, Colorado, Idaho, Nevada, or Wyoming. This applies only to food handling done at a back country food establishment that meets the exemption requirements of Section 26-15a-105(1)(i).

(12) A person working as a food handler for a food service establishment shall obtain a food handler permit no later than seven days after the expiration of an existing food handler permit.

(13) An individual certified as a food safety manager under R392-101 shall be exempt from the requirement of obtaining a food handler permit under this section.

#### **R392-103-4. Suspension or Revocation of Food Handler Permits.**

(1) The local health officer may revoke or suspend a food handler permit if:

(a) A food handler is ill with a disease that may be transmitted through the handling of food or;

(b) If two or more inspections within two years document that the same food handler has at least twice failed to apply the same learning objective listed in R392-103-5 or;

(c) A food handler shows willful disregard to food safety that has the potential to endanger the public.

(2) The local health department may confiscate any food handler permit which cannot be authenticated by a local health department, or that has been revoked or suspended.

(3) A food handler may re-apply to a local health department for reinstatement of a food handler permit by requesting a hearing with the local health department and demonstrating to the local health department to their satisfaction why the permit should be reinstated.

#### **R392-103-5. Food Handler Training Requirements.**

(1) A food handler training provider must receive approval from the Department before offering training to food handlers in the state. A food handler training provider must provide basic instruction focused on Utah Rule R392-100 (which incorporates the FDA national model food code standard), shall include at least 75 minutes of training time offered either in an internet based course or trainer led course or a combination of both, and shall contain basic training information regarding the Centers for Disease Control top five risk factors associated with food-borne illness outbreaks including the bulleted learning objectives as listed below (a) through (d):

(a) Proper hot or cold holding temperatures of food which requires time or temperature control for safety;

— List the temperature danger zone.

— Describe the correct procedure for holding cold foods and hot foods, receiving foods, and proper date and time marking.

— List the appropriate temperatures for refrigerators, freezers and steam tables.

— Identify the hazards of leaving potentially hazardous foods (foods that require time or temperature controls for safety, TCS) at room temperature.

— Define potentially hazardous foods (foods that require time or temperature controls for safety, TCS).

— List the population groups that are the most vulnerable to food-borne illness.

— Discuss how bacterial growth occurs in food.

— Identify the most common causes of food-borne illness.

— List sources of microbes.

(b) Proper cooking, reheating, and cooling temperatures of food;

— List the required final cook temperatures for foods.

— List the final temperature for reheating leftovers.

— Describe the relationship between cooking time and temperature in killing microorganisms.

— Describe the steps used to cool food rapidly.

— Describe the proper procedure to thaw frozen foods.

(c) Control of dirty or contaminated utensils and equipment including prevention of cross contamination and proper ware washing and sanitizing;

— Discuss how a food handler might contaminate food.

— Define cross-contamination.

— List the possible sources of cross-contamination when handling food.

Identify the steps to prevent cross-contamination.

Stress the importance of eliminating bare-hand contact with ready-to-eat food through utensils or gloving.

Define cleaning and sanitizing and correct procedures for each.

Identify the chemicals that can be used to clean and sanitize food-contact surfaces.

Describe the correct concentration of cleaning and sanitizing solutions used on food-contact surfaces and how to test the concentrations.

Identify when surfaces should be cleaned and sanitized.

Describe the correct procedures to use and store chemicals.

Describe the 3-sink method of cleaning and sanitizing pots and pans and how to correctly dry dishes.

Describe the correct procedure for cleaning and sanitizing using a dish machine.

Proper cleaning and sanitizing steps.

Describe the correct procedures for storing dishes and utensils.

Describe the correct procedures to handle trash and garbage.

(d) Employee health and hygiene requirements including food-borne illness prevention training, and using food from only approved sources;

List the personal hygiene practices that the food handler can take to prevent food contamination.

Describe the steps necessary for proper hand washing and when a double hand wash is required.

Describe how hands become contaminated and when and where hand washing should occur.

List appropriate clothing and hair restraints.

List the five major food-borne illness diseases and symptoms that must be reported to the manager.

Describe the correct procedures to prevent food-borne illness from a cut, burn or other wound.

Describe under what conditions an employee may eat, drink or use any form of tobacco and the precautions to take after these activities.

Define a food-borne illness.

State how often a food handler permit has to be renewed.

Define approved source of food and what sources are and are not approved.

(2) An approved food handler training provider shall add training objectives and topics which the Department identifies by rule as being a cause of a food-borne illness outbreak or serious threat to the health of food service facility patrons.

(3) Each time a food handler permit is renewed, the food handler must take a training course from an approved food handler training provider before they may take a food handler exam.

(4) A person may not serve as an instructor of an approved food handler training program unless the person is registered with a local health department as an instructor.

(5) An approved food handler training provider must maintain a list of past and current trainers registered with a local health department denoting the dates the trainer taught food handler courses. The trainer list must be available for audit by the Department. On-line trainers must maintain a list of which course version is taught on-line by date.

(6) An approved food handler training provider must maintain a system to verify a certificate of completion upon request of

the Department, or local health department, or food service establishment where the food handler is employed.

(7) An approved food handler training provider may charge a reasonable fee. An approved food handler training provider may collect both the training fee and food handler permit fee at the same time from the applicant when the applicant initially pays for the training course.

(8) A food handler training provider may not advertise to the public or represent to the public that they offer approved food handler training programs which will allow individuals to obtain a food handler permit in the state if they are not approved by the Department.

#### **R392-103-6. Examination Requirements.**

(1) An approved food handler training provider shall use the bank of food handler exam questions issued by the Department and obtained through application to the Department, or a Department approved set of questions as approved in R392-103-6(2). Exams must contain 40 multiple choice questions with 10 randomly selected questions from each category listed in R392-103-5 (a) through (d). An approved food handler training provider must routinely rotate exam questions from the exam question bank, the order of exam questions, and the answer order of the multiple choice questions.

(2) If a food handler training provider elects not to use the Department issued questions, the food handler training provider may request approval of a different bank of exam questions. For approval, the food handler training provider shall pay to the Department a fee to review the exam questions. The fee shall reflect actual costs, but shall not exceed \$500. The food handler training provider shall also submit to the Department the proposed bank of at least 200 exam questions organized by the required learning objectives listed in this rule with at least 25 questions from each objective. In addition, the food handler training provider shall contract, at their own expense, with a Department approved independent instructional design and testing expert to evaluate the proposed bank of exam questions. The independent instructional design and testing expert shall analyze a food handler training provider's bank of exam questions to determine if the exam questions effectively measure the applicant's knowledge of the learning objectives outlined in this rule and meet the appropriate testing standards for question structure. To be approved, the independent instructional design and testing expert must provide the Department with a positive recommendation based on their analysis. The Department must approve any change in the provider offered bank of exam questions before implementation. Exam approval is good for three years, after which a provider must re-apply for exam approval.

(3) The Department may require changes to the exam questions if the Department finds that the questions inadequately test the learning objectives. An approved food handler training provider shall update the exam questions used within thirty (30) days of written notice of the change.

(4) A person taking a food handler exam must answer at least 75% of the questions correctly to pass the examination to be eligible to receive a food handler permit.

(5) A food handler examination offered by an approved food handler training provider may be written, oral, or on-line. Oral exams may be conducted individually when circumstances require it such as when an applicant's language or reading abilities interfere with taking a written or an on-line exam.

(6) An approved food handler training provider shall implement procedures to ensure that cheating on examinations does

not take place. An approved food handler training provider shall ensure that exams are protected from being compromised, protected from unauthorized access, and available to candidates only during exam time.

(7) An approved food handler training provider shall routinely randomize the exam question order.

(8) An approved food handler training provider shall inform persons taking a food handler course, at the beginning of the course, that downloading exams onto a flash drive or other portable electronic devices or distribution of any exam by the individual in any way to other persons is strictly prohibited. An approved food handler training provider shall also notify persons taking a food handler exam that note taking, use of a cell phone or other recording device, talking to or receiving aid to answer questions from another person during the exam process is strictly prohibited. Violation of the exam security requirements shall invalidate the certificates of completion of all those involved, and a training provider shall report violations to the local health department. A provider shall not issue a certificate of completion to those involved in violation of on-line exam security unless the next successfully completed exam is proctored.

(9) An approved food handler training provider must maintain records of each candidate's name, address of residence including street, city, county and zip code, date of birth, gender, date of examination, pass or fail certificate status, and name of instructor for at least three years and provide this to the local health department within the jurisdiction that the applicant resides. The provider shall send this information to the local health department within whose jurisdiction the applicant resides within 5 business days as required in R392-103-3(3).

(10) An approved food handler training provider shall offer a course evaluation to persons taking approved courses and exams.

(11) An approved food handler training provider must implement procedures to prevent the duplication of certificates of completion.

(12) An approved food handler training provider who offers exams in person either written or on a computer at the facility must proctor the exam. An approved food handler training provider shall require a person taking a course and exam to provide a signature attesting that the person has complied with exam requirements.

(13) An approved food handler training provider who offers exams on-line must implement procedures to reasonably inhibit fraudulent attempts to circumvent the food handler training and exam requirements in this rule such as a person taking an exam in place of another person, and procedures to reasonably ensure an individual taking an approved course and exam is focused on training materials and actively engaged throughout the training period.

(14) An approved internet based food handler training provider's exam offered over the internet shall meet the following exam protocols:

(a) An approved internet based food handler training provider shall submit documentation to the Department on initial approval, audit, or by request regarding the security measures taken to inhibit fraud. Exam protocols will be evaluated by the Department or local health department during the approval process and may be audited by the Department at any time to determine if the protocols are preventing fraudulent activities.

(b) An approved internet based food handler training provider shall require a food handler applicant to provide all applicant information required by this rule and shall electronically link the

information to the exam before the exam may be offered. An approved internet based food handler training provider administrator shall document any repeat taking of the exam and shall require a food handler applicant to retake a food handler training course after no more than three failed attempts to pass the exam.

(c) The start and end time of the exam shall be logged.

(d) An approved internet based food handler training provider shall track the Internet Protocol address or similar electronic location of an individual who takes an on-line course and exam.

(e) An approved internet based food handler training provider shall present pre-exams at the end of each learning section and at a minimum of four pre-exams per course. The pre-exams must be completed at a 75% correct rate before allowing a person to the next section. All pre-exams must contain a minimum of four questions and be completed before allowing the exam to be provided to a person.

(f) An approved internet based food handler training provider shall provide technical support to users by way of the internet, phone, or other method in case technical difficulties occur.

(g) An approved internet based food handler training provider shall require persons taking a course and exam to provide an electronic signature attesting that the person has complied with exam requirements.

(15) An approved internet based food handler training provider must monitor exam protocols and periodically (at a minimum of monthly), perform a self-review to assess that the system is working and to ensure that each exam meets exam protocols before issuing a certificate of completion. Any instance of suspected violation of exam protocols must be reported to the local health department where the applicant resides.

#### **R392-103-7. Food Handler Training Provider Approval, and Auditing.**

(1) An approved food handler training provider must offer both training and testing to be approved by the Department in consultation with the local health department before they may offer food handler training and testing in the state.

(2) An approved food handler training provider that has been approved by the Department or a local health department before the effective date of this rule may continue to provide food handler training and testing for 90 days from the effective date of this rule. After 90 days, all food handler training providers must be re-approved by the Department according to the requirements of this rule to continue operating in the state.

(3) As part of the approval process, the Department or local health department designee shall provide prospective food handler training providers a copy of this rule. Food handler training providers must sign an affidavit provided by the Department that states the provider will comply with the requirements of this rule and shall abide by confidentiality agreements if the provider chooses to use the Department provided exam. A food handler provider must present to the Department a summary of how the training program meets the training objectives contained in R392-103-5.

(4) A food handler training provider shall be open to audit during the initial approval process and also during any subsequent audits to Department authentication of the following information:

(a) Any documents used in the food handler training, and

(b) Identity of instructors and providers.

(5) A food handler training provider must submit an application for re-approval to the Department every three years. The

~~food handler training provider shall follow the requirements of R392-103-7 to apply for re-approval.~~

~~(6) A food handler training provider is subject to Department audit to determine compliance with this rule. A food handler training provider shall allow the Department unrestricted access to provider course training and testing materials, provide unrestricted on-line access to training sites, and unrestricted access to classroom training sessions. The Department may conduct audits either at random or on a complaint basis to determine compliance with the requirements of this rule.~~

~~(7) If the Department finds that an approved food handler training provider is non-compliant during an audit, the Department shall revoke the registration and the food handler training provider shall cease offering training classes and food handler certificates until the Department mandated corrective action is taken to correct the violation. Until the violation is corrected, certificates issued by this food handler training provider shall not be accepted for the issuing of food handler permits by the local health officer from the date the food handler training provider was found to be non-compliant.~~

~~(8) An approved food handler training provider shall comply with the Americans with Disability Act (ADA) access requirements irrespective of the size of the training operation.]~~

#### **R392-103-1. Purpose.**

~~(1) This rule requires adherence to uniform statewide standards for training and testing food handlers, issuing food handler certificates and permits, and paying and receiving fees.~~

~~(2) The Centers for Disease Control and Prevention has identified five risk factors associated with foodborne illness outbreaks. Four of the five risk factors result from improper handling of food by food handlers or poor personal hygiene of food handlers.~~

~~(3) Proper application of the required training principles will empower food handlers to prevent and safeguard against foodborne illnesses. Testing of food handlers confirms that the food handler gained an understanding of correct food protection principles. A food handler permit that is recognized statewide provides a tool for local health officers to verify that food handlers have received state approved training and testing.~~

~~(4) State and local monitoring of the food handler training, certificate, and permitting process is critical to promoting and protecting public health. Coordination between this process, the routine inspection of regulated facilities, and the investigation of foodborne illness outbreaks is necessary to respond quickly and effectively to identified and suspected risks to public health.~~

#### **R392-103-2. Authority.**

~~This rule is authorized by Section 26-15-5 and Section 26-1-30.~~

#### **R392-103-3. Definitions.**

~~(1) "Certificate" means the documentation of food handler training completion indicating passing of a Department approved exam.~~

~~(2) "Cross Contact" means the unintentional transfer of an allergen from a food or food-contact surface containing an allergen to a food or food-contact surface that does not contain the allergen.~~

~~(3) "Cross Contamination" means the process by which microorganisms are unintentionally transferred with harmful effect to food or food contact surfaces from other food, food contact surfaces, food handlers, or equipment.~~

~~(4) "Department" means the Utah Department of Health.~~

~~(5) "Double Handwash" means to wash hands in a handwashing sink immediately after using the toilet room or changing a diaper and then washing the hands again after entering the food preparation or food service area, but before handling food.~~

~~(6) "Food Handler" means a person who works with unpackaged food, food equipment or utensils, or food-contact surfaces for a food establishment or food truck as defined in R392-100 or R392-102 respectively.~~

~~(7) "Food Handler Applicant" or "applicant" means a person who is seeking or receiving training from an approved food handler training provider, or a person who holds a certificate and has made application with a Local Health Officer to obtain a food handler permit.~~

~~(8) "Food Handler Permit" or "permit" means a permit issued by a local health department to allow a person to work as a food handler.~~

~~(9) "Food Service Establishment" has the same meaning as provided in Section 26-15a-102(3).~~

~~(10) "Independent Instructional Design and Testing Expert" means a person who has received training and has a graduate degree from an accredited university with a certification in psychometrics and expertise in Instructional Design.~~

~~(11) "Local Health Department" has the same meaning as provided in Section 26A-1-102(5).~~

~~(12) "Local Health Officer" means the director of the jurisdictional local health department as defined in Section 26A, Chapter 1, or designated representative.~~

~~(13) "Person in Charge" means the person present at a food service establishment or temporary food service event who is responsible for its operation at the time of inspection by the local health officer.~~

~~(14) "Training Provider" means an entity that provides a food handler training program and exam approved by the Utah Department of Health.~~

#### **R392-103-4. Food Handler Permit Issuing Procedure, Reciprocity, and Renewal.**

~~(1) Except when Subsections R392-103-4(15) and (16) apply, a person may not work as a food handler for a food service establishment or temporary event unless the person:~~

~~(a) obtains a certificate within 14 days after the day on which the person begins employment as a food handler; and~~

~~(b) obtains a food handler permit within 30 days after the day on which the person begins employment as a food handler.~~

~~(2) A food handler shall obtain a food handler permit no later than 7 days after the expiration of the food handler's existing permit.~~

~~(3) Replacement of lost permits shall only be issued by the local health department having jurisdiction.~~

~~(a) A local health department may charge a fee for replacement of a lost or misplaced permit.~~

~~(4) A training provider shall promptly issue a certificate to any food handler applicant who receives the training provider's Department approved training and passes a Department approved exam.~~

~~(5)(a) Using a data template approved by the Department, a training provider shall transmit via email the information described in~~

Subsection R392-103-7(10)(a) to the local health department having jurisdiction within seven days of a certificate's issuance.

(b) This data transmission shall serve as notification to the local health department that an applicant has completed an approved course and exam.

(i) A training provider shall provide all information required by the Department-approved data template.

(ii) No provider or local health department may require changes to the data template or require additional information unless approved by the Department.

(6) To prevent fraud, the training provider shall number each issued certificate using a unique numbering system.

(7) The certificate shall contain the following information:

(a) Name of the person to whom the certificate is issued;

(b) Date of issuance; and

(c) Name of the issuing training provider.

(8) Upon issuance, the certificate shall be valid for 30 days. A local health officer shall accept the certificate as proof that the food handler applicant completed Department approved training and testing.

(9) A local health officer shall issue a food handler permit when:

(a) an applicant provides to the local health department a valid certificate of an approved food handler training program; or

(b) the local health department has received notification of an applicant receiving training and passing an approved exam by the training provider as required in Subsection R392-103-4(5); and

(c) The local health department has received a food handler permit fee.

(i) The food handler permit fee shall be no more than \$15 and shall be uniform statewide.

(10) The front of an issued food handler permit shall contain the following information:

(a) Title that reads, "Utah Food Handler Permit";

(b) Name of the food handler;

(c) Permit expiration date;

(d) Identification number that includes the training provider's 2-letter unique identifier followed by up to 8 alphanumeric characters;

(e) Name of local health department issuing the permit;

(f) The phrase, "This Permit is Not a Legal Form of Identification" stated at the bottom of the permit; and

(g) Utah State seal.

(11) The back of an issued food handler permit shall contain the following statements:

(a) "Permit must be presented upon request by the local health officer"; and

(b) "Permit may be revoked for cause".

(12) A local health officer shall accept any food handler permit issued under authority of this rule until the date of expiration, revocation, or suspension of the food handler permit.

(13) Except for temporary food service events, the person in charge of a food establishment shall provide, upon request of the local health officer, a copy of a food handler permit for each food handler working in the food establishment. For temporary events, the person in charge is not required to maintain copies of food handler permits, but at least one present person must be able to show that person's current food handler permit to the local health officer.

(14) Food handler permits shall be valid statewide for 3 years from the date of issuance. Food handler permits may be renewed

every 3 years by completing an approved food handler training course, passing an exam administered by an approved food handler training provider, and receiving a food handler permit from a local health officer.

(15) The local health officer shall accept a food handler permit issued to a back country outfitter by the United States Department of the Interior, or by a public health authority in Arizona, Colorado, Idaho, Nevada, or Wyoming. This applies only to food handling done at a back country food establishment and meeting the exemption requirements of Section 26-15a-105(1)(i).

(16) A person who has met the requirements of Rule R392-101 to become certified as a food safety manager shall be exempt from the requirement to obtain a food handler permit under this section.

#### **R392-103-5. Suspension or Revocation of Food Handler Permits.**

(1) A local health officer may revoke or suspend a food handler permit if:

(a) A food handler is ill with a disease that may be transmitted through the handling of food;

(b) The local health officer documents in two or more inspections within two years that the same food handler has at least twice failed to apply the same training objective listed in Subsection R392-103-6(2); or

(c) A food handler shows willful disregard for food safety or food protection in a manner that has the potential to endanger public health.

(2) The local health officer may confiscate any food handler permit that the local health officer cannot authenticate or that has been revoked or suspended.

(3) A food handler may reapply to a local health department for reinstatement of a revoked or suspended food handler permit by requesting a hearing with the local health officer and demonstrating to the local health officer's satisfaction that the food handler permit may be reinstated.

#### **R392-103-6. Food Handler Training Requirements.**

(1) A person or entity shall receive approval from the Department before offering training to food handlers in the state. An approved food handler training program shall:

(a) include at least 75 minutes of training time offered either in an internet-based course, a trainer-led course, or a combination of both;

(b) contain basic training information regarding the Centers for Disease Control top 5 risk factors associated with foodborne illness; and

(c) only contain information that is consistent with the FDA national model food code standard incorporated by reference in R392-100.

(2) A training provider shall ensure that the food handler training program contains each of the following specific training objectives:

(a) Food Protection - Limiting Harmful Pathogens

(i) Define potentially hazardous foods (foods that require time or temperature controls for safety, TCS).

(ii) Provide a comprehensive list of foodborne pathogen sources.

(iii) Discuss ideal conditions for bacterial growth in food.

(iv) List the temperature danger zone.

(v) List proper hot and cold holding temperatures of food which requires time or temperature control for safety.

(vi) List the appropriate temperatures for refrigerators and hot holding equipment.

(vii) Describe the approved procedures for thawing frozen foods.

(viii) Describe the approved methods for cooling food.

(ix) Describe approved and unapproved food sources.

(x) Describe the correct procedures for date marking and discarding food.

(xi) Identify the conditions in which time can be used as a public health control without temperature control.

(b) Food Protection - Destroying Harmful Pathogens and Preventing Food Contamination

(i) List the required final cook temperatures for foods.

(ii) Describe the procedure and list the final temperature for reheating leftovers for hot holding.

(iii) Describe the relationship between cooking time and temperature in killing microorganisms.

(iv) Define cross contamination.

(v) List the possible sources of cross contamination when handling food.

(vi) Discuss how a food handler might contaminate food.

(vii) Identify steps to prevent cross contamination.

(viii) Stress the importance of eliminating bare-hand contact with ready-to-eat food.

(ix) Describe how, when, and where to use utensils or gloves.

(x) Define and give examples of the major food allergens.

(xi) Describe the range of symptoms, including the types of mild reactions to anaphylactic shock or death, that an individual having an allergic reaction may experience after exposure to a food allergen.

(xii) Identify steps to prevent cross-contact of food allergens, and stress that cooking does not remove an allergen from food.

(c) Equipment, Utensils, and Linens

(i) Explain the difference between cleaning and sanitizing, and describe the correct procedures for each.

(ii) Identify when surfaces should be cleaned and sanitized.

(iii) Identify the commonly-used chemicals approved for sanitizing food-contact surfaces.

(iv) Describe how to test chemical concentration of sanitizing solutions used on food-contact surfaces, and stress its importance.

(v) Describe the 3-compartment sink method of cleaning, rinsing, and sanitizing utensils and how to correctly dry dishes.

(vi) Describe the correct procedure for cleaning and sanitizing utensils and equipment when using a warewashing machine.

(vii) Describe the correct procedures for storing cleaned dishes and utensils, laundered linens, and single-service and single-use articles.

(viii) Describe the procedures for safe chemical storage and use.

(ix) Describe the correct procedures for handling, storage, and removal of solid waste.

(d) Employee Health and Hygiene

(i) List the reportable foodborne illness diagnoses as well as reportable symptoms, past illnesses, and history of exposure that a food handler must report to the person in charge.

(ii) Describe the personal hygiene practices a food handler must follow to prevent food contamination.

(iii) Describe the proper hand washing procedure and when a double hand wash is required.

(iv) Describe how hands become contaminated and when and where hand washing should occur.

(v) List approved jewelry, clothing, and hair restraints.

(vi) Describe the correct procedures to prevent a foodborne illness from a cut, burn, or other wound.

(vii) Describe the conditions in which an employee may eat, drink, or use any form of tobacco as well as the precautions to take after these activities.

(viii) Define a foodborne illness.

(ix) List the population groups that are the most vulnerable to foodborne illness.

(3) Each time a food handler permit is renewed, the food handler must take a training course from an approved food handler training provider before the food handler may take a food handler exam.

(4) A person may instruct an approved food handler training program only when the person is registered with a local health department as an instructor.

(5) Prior to registration, each instructor of a trainer-led food handler course shall demonstrate to the local health department that the instructor has received food protection management training equivalent to the requirements of R392-101-3, as determined by the local health officer or the Department.

(6) Prior to training program approval, a representative of an internet-based food handler course shall demonstrate to the Department that the representative has received food protection management training equivalent to the requirements of R392-101-3, as determined by the Department.

(7) A training provider shall maintain a list of past and current instructors registered with a local health department denoting the dates the instructor taught food handler courses. A training provider shall provide the instructor list to the Department upon request. Online training providers shall maintain a list or database of courses taught online according to course version and training date.

(8) A training provider shall maintain a system to verify a certificate upon request of the Department, the local health department, or the food establishment where the food handler is employed.

(9) A training provider may charge a reasonable fee. A training provider may collect both the training fee and food handler permit fee at the same time from the applicant when the applicant initially pays for the training course.

(10) If a person or entity is not approved by the department to provide an approved food handler training program, the person or entity may not represent, in connection with the person's or entity's name of business, including in advertising, that the person or entity is a provider of an approved food handler training program or otherwise represent that a program offered by the person or entity will qualify a person to work as a food handler.

#### **R392-103-7. Exam Requirements.**

(1) A training provider shall use the bank of food handler exam questions issued by the Department and obtained through application to the Department, or a Department approved set of questions as described in R392-103-7(2). Exams shall contain 40 multiple choice questions with 10 randomly selected questions from

each content section listed in Subsection R392-103-6(2)(a) through (d). A training provider shall routinely rotate exam questions from the exam question bank, and randomize the order of exam questions as well as the answer order of the multiple-choice questions.

(2) If a training provider elects not to use the Department issued questions, the training provider may request approval of a different bank of exam questions. For approval, the training provider shall pay to the Department a fee to review the exam questions. The fee shall reflect actual costs, but shall not exceed \$500. The training provider shall also submit to the Department the proposed bank of at least 200 exam questions organized by the required content sections, and covering the learning objectives listed in this rule with at least 25 questions from each content section. In addition, the training provider shall contract, at their own expense, with a Department approved independent instructional design and testing expert to evaluate the proposed bank of exam questions. The independent instructional design and testing expert shall analyze a training provider's bank of exam questions to determine if the exam questions effectively measure the applicant's knowledge of the learning objectives outlined in this rule and meet the appropriate testing standards for question structure. To be approved, the independent instructional design and testing expert must provide the Department with a positive recommendation based on the expert's analysis. The Department must approve any change in the provider offered bank of exam questions before implementation. Exam approval is good for three years, after which a provider shall reapply for exam approval.

(3) If the Department finds that a question inadequately tests comprehension of the learning objectives, the Department may invalidate the question and may require the training provider to revise or remove the exam question. A training provider shall update any invalidated exam questions no more than 30 days after receiving written notice from the Department.

(4) In order to pass the required exam, a food handler applicant shall correctly answer at least 75% of the exam questions.

(5) A training provider may offer a written, oral, or online food handler exam. As circumstances dictate, a training provider may offer an oral exam individually to a food handler applicant having language or reading comprehension difficulties or other mental or physical limitations that may interfere with the applicant's ability to complete a written or an online exam.

(6) A training provider shall implement procedures to prevent cheating on exams. A training provider shall ensure that exam questions are protected from:

(a) Unauthorized access;

(b) Copy or alteration; and

(c) Access to food handler applicants outside of established exam time.

(7) A training provider shall inform a food handler applicant, at the beginning of the course, that:

(a) food handler permits are valid for 3 years statewide; and

(b) lost or misplaced permits may be reissued by the applicant's local health department for a fee.

(8) A training provider shall inform a food handler applicant, at the beginning of the course, that the food handler applicant is strictly prohibited from engaging in any of the following practices:

(a) Downloading exams onto a flash drive or other portable electronic device;

(b) Distributing the exam in any way to another person;

(c) Taking notes during the exam;

(d) Using a cell phone or other recording device; or

(e) Conversing with any other person or receiving aid to answer questions during the exam process.

(9) A training provider shall invalidate the certificates of any food handler applicant involved in the violation of any of the exam security requirements listed in Subsection R392-103-7(8). A food handler applicant involved in violation of the exam security requirements shall receive a certificate from a training provider only after the food handler applicant has successfully completed an additional training course and a proctored exam.

(10)(a) A training provider shall maintain records for at least three years of each food handler applicant's:

(i) Name;

(ii) Mailing address;

(iii) Email address;

(iv) Primary phone number;

(v) Date of birth;

(vi) Date of exam;

(vii) Exam score;

(viii) Certificate expiration date; and

(ix) Name of instructor.

(b) A training provider shall provide this record to the local health department receiving application from the food handler applicant within seven days as required in Subsection R392-103-4(5).

(11) A training provider shall implement procedures to prevent the duplication of certificates such as the use of a void pantograph, invisible watermarks, copy-evident or security paper, or the use of electronic copy protection features.

(12) A training provider shall proctor any exam offered in person either in written form or on a computer located at the training facility.

(13) A training provider shall require a food handler applicant to provide a signature attesting that the applicant has complied with exam requirements.

(14) A training provider shall offer a course and exam evaluation to food handler applicants.

(15) An internet-based training provider shall implement procedures to reasonably inhibit fraudulent attempts to circumvent the food handler training and exam requirements in this rule such as a person taking an exam in place of another person. A training provider shall implement procedures to reasonably ensure a food handler applicant taking an approved course and exam is focused on training materials and actively engaged throughout the training period.

(16) An internet-based training provider offering an exam over the internet shall meet the following additional protocols:

(a) The training provider shall log the start and end time of each online exam.

(b) The training provider shall monitor any repeat attempts to pass an online exam, and shall require a food handler applicant to retake a food handler training course after three failed attempts to pass the exam.

(c) The training provider shall track the Internet Protocol (IP) address or similar electronic location identifier of a food handler applicant who begins an online exam.

(d) The training provider shall require a food handler applicant to provide an electronic signature before taking an online exam to attest that the applicant will comply with exam requirements.

(e) The training provider shall require a food handler applicant to provide all applicant information required by this rule and shall electronically link the information to the exam before the exam may be offered.

(f) The training provider shall present a minimum of four pre-exam questions at the end of each learning section. The food handler applicant shall correctly answer 75% of the pre-exam questions before being allowed to proceed to the next section. The training provider shall ensure that the food handler applicant completes all pre-exam questions before proceeding to the online exam.

(g) The Department and local health officers will evaluate exam protocols during the training program approval process. The Department may audit the training program at any time to determine that the existing protocols are preventing fraudulent activities.

(17) An internet-based training provider shall maintain all documentation of fraud prevention measures required in Subsection R392-103-7(16)(a) through (e) for 3 years, and may be required to submit copies of this documentation to the Department in response to any of the following events:

(a) Upon initial application submittal to the Department for food handler training program approval;

(b) When applying to the Department for training program revalidation as required in R392-103-8(5);

(c) During an audit by the Department; or

(d) At the written request of the Department.

(18) An internet-based training provider shall provide technical support to users by way of the internet, phone, or other method in case technical difficulties occur.

(19) An internet-based training provider shall monitor exam protocols and perform a self-review at least monthly to assess that the system is working and to ensure that each exam meets exam protocols before issuing a certificate.

#### **R392-103-8. Training Provider Approval and Auditing.**

(1) A food handler training provider that has been approved by the Department before the effective date of this rule may continue to provide food handler training and testing as previously approved until three years from the effective date of this rule, at which time full compliance with this rule is required.

(2) To be considered for approval after the effective date of this rule, a prospective training provider shall submit to the Department:

(a) a completed application;

(b) a written summary describing how the training program meets each training objective listed in Subsection R392-103-6(2);

(c) a copy of the course curriculum, including slides, handouts, talking points, script, videos, brochures, or any additional information used during the course, or full access to the online course; and

(d) a copy of the exam questions, if applicable, as described in Subsection R392-103-7(2).

(3) As part of the approval process, the Department shall provide prospective training providers with either a hard copy or electronic copy of this rule. Training providers shall sign an affidavit provided by the Department stating that the training provider will comply with the requirements of this rule and abide by confidentiality agreements when using Department provided exam questions.

(4) During the initial approval process and any subsequent audits, a training provider shall grant access to the Department to audit

or authenticate any documents used in the food handler training as well as the identity of instructors and training providers.

(5) A training provider shall submit an application to the Department for training program revalidation every 3 years from the date of initial approval by the Department. The training provider shall follow the requirements of Subsection R392-103-8(2) to apply for revalidation.

(6) In order to determine and verify compliance with this rule, the Department may conduct an audit of the training provider's program. The Department may conduct audits routinely, randomly, or in response to a complaint. A training provider shall allow the Department unrestricted access to the following:

(a) Course training and testing materials; and,

(b) Online training sites; and,

(c) Classroom training sessions.

(7)(a) If the Department finds that a training provider is non-compliant during an audit, the Department shall revoke the registration and remove the training provider from the list of approved food handler training providers in Utah. The training provider shall then immediately cease and desist training and issuing certificates until the Department has verified that the issues of non-compliance have been corrected.

(b) The Department shall notify the local health departments when a training provider has been removed from or added to the list of approved food handler training providers in Utah.

(c) The local health officer shall refuse to accept certificates issued by a training provider as described in Subsection R392-103-8(7)(a) from the date the training provider was found to be in non-compliance until the violation is corrected and the Department has again issued written approval and placed the training provider on the list of approved food handler training providers in Utah.

(8) A training provider shall comply with the Americans with Disability Act (ADA) access requirements regardless of the size of the training operation.

**KEY: food handler training, food handler certificates, food handler permits, food handler [testing] exams**

**Date of Enactment or Last Substantive Amendment: [~~August 1, 2013~~2017**

**Authorizing, and Implemented or Interpreted Law: 26-1-30[~~2~~](4); 26-15-5; 26A-1-114(1)(h)**

## Health, Health Care Financing, Coverage and Reimbursement Policy **R414-1-29** Medicaid Policy for Reconstructive and Cosmetic Procedures

### NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 42007  
FILED: 08/08/2017



**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this change is to clarify Medicaid policy on coverage for cosmetic procedures and reconstructive surgery.

**SUMMARY OF THE RULE OR CHANGE:** This amendment clarifies Medicaid policy on coverage for cosmetic procedures and reconstructive surgery.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** 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 this change only clarifies Medicaid policy. It neither affects service coverage to Medicaid members nor reimbursement to Medicaid providers.
- ◆ **LOCAL GOVERNMENTS:** There is no budget impact to local governments because they neither fund nor provide cosmetic or reconstructive procedures to Medicaid members.
- ◆ **SMALL BUSINESSES:** There is no impact to small businesses because this change only clarifies Medicaid policy. It neither affects service coverage to Medicaid members nor reimbursement to Medicaid providers.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no impact to Medicaid providers and to Medicaid members because this change only clarifies Medicaid policy. It neither affects service coverage nor provider reimbursement.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** There are no compliance costs to a single Medicaid provider or to a Medicaid member because this change only clarifies Medicaid policy. It neither affects service coverage nor provider reimbursement.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to businesses.

**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 Office 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 or mail at PO Box 143102, Salt Lake City, UT 84114-3102

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/02/2017

THIS RULE MAY BECOME EFFECTIVE ON: 10/15/2017

AUTHORIZED BY: Joseph Miner, MD, Executive Director

**R414. Health, Health Care Financing, Coverage and Reimbursement Policy.**

**R414-1. Utah Medicaid Program.**

**R414-1-29. Medicaid Policy for Reconstructive and Cosmetic Procedures.**

(1) Reconstructive or restorative services are medically necessary and performed on abnormal structures of the body to improve and restore bodily function or to correct deformity resulting from disease, trauma, or congenital anomaly~~[, or previous therapeutic intervention]~~.

(2) Cosmetic procedures are performed with the primary intent to improve appearance, are not covered services, and include non-medically necessary procedures performed in the same episode as a covered procedure.

(3) Coverage for reconstructive breast procedures related to cancer includes:

(a) reconstruction of the breast on which the procedure is performed; and

(b) reconstruction of the breast on which the procedure is not performed to produce a symmetrical appearance and prostheses.

(4) Reconstructive breast surgeries are limited to initial occurrences that may include multi-step procedures.

(a) Medicaid does not cover repeat procedures.

**KEY: Medicaid**

**Date of Enactment or Last Substantive Amendment:** ~~[July 1], 2017~~

**Notice of Continuation:** February 15, 2017

**Authorizing, and Implemented or Interpreted Law:** 26-1-5; 26-18-3; 26-34-2

Health, Family Health and  
 Preparedness, Child Care Licensing  
**R430-50**  
 Residential Certificate Child Care

**NOTICE OF PROPOSED RULE**  
 (Amendment)

DAR FILE NO.: 42022

FILED: 08/14/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The child care community, the Child Care Residential Advisory Committee, and the Child Care Licensing Program supported the need for a revision of this

rule. This rule was written in a very complex format and had many parts that were no longer applicable. Additionally, there were different sets of rules that applied to this provider type and also needed to be rewritten and combined in one single set of rules for clarity and to make it simpler to understand and follow.

**SUMMARY OF THE RULE OR CHANGE:** This rule was rewritten using simpler language and all rules that were not applicable were deleted. The rule sections were reorganized and renamed, and Rule R430-6 (the background screening rule) and Rule R430-1 (the administrative rule) were also rewritten and combined with this rule to have all requirements in one place.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 26, Chapter 39

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** No state agencies operate child care homes. Therefore, Child Care Licensing does not anticipate any cost or savings as a result of this change.
- ◆ **LOCAL GOVERNMENTS:** No local governments operate child care homes. Therefore, Child Care Licensing does not anticipate any cost or savings as a result of this change.
- ◆ **SMALL BUSINESSES:** All child care homes are small businesses. Since the proposed changes do not add any requirements, Child Care Licensing does not anticipate any costs or savings to child care programs operated by small business.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Since the proposed changes do not add any requirements, Child Care Licensing does not anticipate any 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, Child Care Licensing does not anticipate any compliance costs for affected persons.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There is not fiscal impact for any of the parties affected by these proposed rule changes because these rules were only rewritten and reorganized in simpler language and no additional requirements were included.

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

HEALTH  
FAMILY HEALTH AND PREPAREDNESS,  
CHILD CARE LICENSING  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Office 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 or mail at PO Box 142003, Salt Lake City, UT 84114-2003

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/02/2017**

**THIS RULE MAY BECOME EFFECTIVE ON:** 10/10/2017

**AUTHORIZED BY:** Joseph Miner, MD, Executive Director

### **R430. Health, Family Health and Preparedness, Child Care Licensing.**

#### **R430-50. Residential Certificate Child Care.**

##### **[R430-50-1. Legal Authority and Purpose.**

~~———— This rule is promulgated pursuant to Title 26, Chapter 39. This rule establishes standards for the operation and maintenance of residentially certified child care providers who care for one to eight children in their home. It establishes minimum requirements for the health and safety of children in the care of residentially certified providers.~~

##### **R430-50-2. Definitions.**

- ~~———— (1) "Body fluid" means blood, urine, feces, vomit, mucus, and saliva.~~
- ~~———— (2) "Caregiver" means an individual who provides direct care to children.~~
- ~~———— (3) "Certificate holder" means the person holding a Department of Health child care certificate.~~
- ~~———— (4) "Department" means the Utah Department of Health.~~
- ~~———— (5) "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.~~
- ~~———— (6) "Health care provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.~~
- ~~———— (7) "Inaccessible to children" means:~~
  - ~~———— (a) locked, such as in a locked room, cupboard or drawer;~~
  - ~~———— (b) secured with a child safety device, such as a child safety cupboard lock or doorknob device;~~
  - ~~———— (c) behind a properly secured child safety gate;~~
  - ~~———— (d) located in a cupboard or on a shelf more than 36 inches above the floor; or~~
  - ~~———— (e) not in any location in a bathroom where a child could reach, including by climbing on a toilet, bathtub, or counter.~~
- ~~———— (8) "Infant" means a child aged birth through 11 months of age.~~
- ~~———— (9) "Infectious disease" means an illness that is capable of being spread from one person to another.~~
- ~~———— (10) "Over the counter medication" means medication that can be purchased without a written prescription. This includes herbal remedies and vitamin and mineral supplements.~~
- ~~———— (11) "Parent" means the parent or legal guardian of a child in care.~~

- \_\_\_\_\_ (12) "~~Physical abuse~~" means ~~causing non-accidental physical harm to a child.~~
- \_\_\_\_\_ (13) "~~Preschooler~~" means a child aged 2 through 4, and 5-year olds who have not yet started kindergarten.
- \_\_\_\_\_ (14) "~~Provider~~" means the certificate holder.
- \_\_\_\_\_ (15) "~~Related children~~" means children for whom a provider is the parent, legal guardian, step parent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.
- \_\_\_\_\_ (16) "~~Sanitize~~" means to reduce the number of germs on a surface to such a level that disease transmission by that surface is unlikely.
- \_\_\_\_\_ (17) "~~School age~~" means children ages five through twelve.
- \_\_\_\_\_ (18) "~~Sexual abuse~~" means abuse as provided in Utah Code, Section 76-5-404.1.
- \_\_\_\_\_ (19) "~~Sexually explicit material~~" means any depiction of sexually explicit conduct, as defined in Utah Code, Section 76-5a-2(8).
- \_\_\_\_\_ (20) "~~Sleeping equipment~~" means a cot, mat, crib, bassinet, porta-crib, play pen, or bed.
- \_\_\_\_\_ (21) "~~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 a child uses 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.
- \_\_\_\_\_ (22) "~~Strangulation hazard~~" means something on a component of playground equipment on which a child's clothes or something around a child's neck could become caught. For example, bolt ends that extend more than two threads beyond the face of the nut, hardware configurations that form a hook or leave a gap or space between components, and open "S" type hooks.
- \_\_\_\_\_ (23) "~~Supervision~~" means the function of observing, overseeing, and guiding a child or group of children.
- \_\_\_\_\_ (24) "~~Substitute~~" means a person who assumes the certificate holder's duties under this rule when the certificate holder is not present. This includes emergency substitutes.
- \_\_\_\_\_ (25) "~~Toddler~~" means a child aged 12 months but less than 24 months.
- \_\_\_\_\_ (26) "~~Unrelated children~~" means children who are not related children.
- \_\_\_\_\_ (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 direct 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.

**R430-50-3. Certificate Required.**

- \_\_\_\_\_ (1) A person must either be certified under this rule or licensed under R430-90, if he or she:
  - \_\_\_\_\_ (a) provides care in lieu of care ordinarily provided by a parent;
  - \_\_\_\_\_ (b) provides care for five or more unrelated children;
  - \_\_\_\_\_ (c) provides care for four or more hours per day;
  - \_\_\_\_\_ (d) has a regularly scheduled, ongoing enrollment; and

- \_\_\_\_\_ (e) provides care for direct or indirect compensation.
- \_\_\_\_\_ (2) The Department does not issue certificates, nor is a certificate required for:
  - \_\_\_\_\_ (a) a person who cares for related children only; or
  - \_\_\_\_\_ (b) a person who provides care on a sporadic basis only.

**R430-50-4. Indoor Environment.**

- \_\_\_\_\_ (1) The certificate holder shall ensure that any building or playground structure on the premises 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 certificate holder shall contact the local health department and follow all required procedures for the remediation of the lead-based paint hazard.
- \_\_\_\_\_ (2) There shall be a working toilet and a working handwashing sink accessible to each non-diapered child in care.
- \_\_\_\_\_ (3) Each school age child shall have privacy when using the bathroom.
- \_\_\_\_\_ (4) The home shall be ventilated by mechanical ventilation, or by windows that open and have screens.
- \_\_\_\_\_ (4) The certificate holder shall maintain adequate light intensity for the safety of children and the type of activity being conducted and shall keep the lighting equipment in good working condition.
- \_\_\_\_\_ (5) For certificate holders who receive an initial certificate after 1 September 2008 there shall be at least 35 square feet of indoor play space for each child, including the providers' related children who are ages four through twelve and not counted in the provider to child ratios.
- \_\_\_\_\_ (6) 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 children's materials.
- \_\_\_\_\_ (7) Bathrooms, closets, hallways, and entryways are not included when calculating indoor space for children's use.

**R430-50-5. Cleaning and Maintenance.**

- \_\_\_\_\_ (1) The certificate holder shall ensure that a clean and sanitary environment is maintained.
- \_\_\_\_\_ (2) The certificate holder shall take safe and effective measures to prevent and eliminate the presence of insects, rodents, and other vermin.
- \_\_\_\_\_ (3) The certificate holder shall maintain ceilings, walls, floor coverings, draperies, blinds, furniture, fixtures, and equipment in good repair to prevent injury to children.
- \_\_\_\_\_ (4) The certificate holder shall ensure that entrances, exits, steps and outside walkways are maintained in a safe condition, and free of ice, snow, and other hazards.

**R430-50-6. Outdoor Environment.**

- \_\_\_\_\_ If there is 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) For certificate holders who received an initial certificate after 1 September 2008, the outdoor play area shall have at least 40 square feet of space for each child using the space at one time.

\_\_\_\_\_ (3) The outdoor play area shall be enclosed within a 4 foot high fence or wall, or within a solid natural barrier that is at least 4 feet high if:

\_\_\_\_\_ (a) the certificate holder's home is located on a street with a speed limit higher than 25 miles per hour, or within half a mile of a street with a speed limit higher than 25 miles per hour; or

\_\_\_\_\_ (b) the certificate holder's home is located on a street with more than two lanes of traffic, or within half a mile of a street with more than two lanes of traffic.

\_\_\_\_\_ (4) If any of the following hazards exist, they must be located behind a 4 foot high fence, wall, or solid barrier that separates the hazard from the children's outdoor play area:

\_\_\_\_\_ (a) livestock on the certificate holder's property or within 50 yards of the certificate holder's property line;

\_\_\_\_\_ (b) a water hazard, such as a swimming pool, pond, ditch, lake, reservoir, river, stream, creek, or animal watering trough, on the certificate holder's property or within 100 yards of the certificate holder's property line;

\_\_\_\_\_ (c) dangerous machinery, such as farm equipment, on the certificate holder's property or within 50 yards of the certificate holder's property line;

\_\_\_\_\_ (d) a drop-off of more than 5 feet on the certificate holder's property or within 50 yards of the certificate holder's property line; or

\_\_\_\_\_ (e) barbed wire within 30 feet of the children's play area.

\_\_\_\_\_ (5) The outdoor play area shall be free of poisonous plants, harmful objects, toxic or hazardous substances, and standing water.

\_\_\_\_\_ (6) When in use by children, the outdoor play area shall be free of animal excrement.

\_\_\_\_\_ (7) If a fence or barrier is required in Subsections (3) or (4) above, or in Subsections 12(9)(e)(i) or 12(10)(b) below, there shall be no gap greater than five inches in the fence or barrier, nor shall any gap between the bottom of the fence or barrier and the ground be greater than five inches.

\_\_\_\_\_ (8) The outdoor play area shall have a shaded area to protect each child from excessive sun and heat whenever there are children in the outdoor play area.

\_\_\_\_\_ (9) An outdoor source of drinking water, such as individually labeled water bottles, or a pitcher of water and individual cups that are taken outside, shall be available to each child whenever the outside temperature is 75 degrees or higher.

\_\_\_\_\_ (10) Stationary play equipment used by any child in care shall not be located over hard surfaces such as cement, asphalt, or packed dirt.

\_\_\_\_\_ (11) The certificate holder shall ensure that children using outdoor play equipment use it safely and in the manner intended by the manufacturer.

\_\_\_\_\_ (12) There shall be no openings of a size greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter on any piece of stationary play equipment where the feet of any child in care whose head is entrapped in the opening cannot touch the ground.

\_\_\_\_\_ (13) There shall be no strangulation hazard on, within the use zone of, or adjacent to the use zone of any piece of stationary play equipment.

\_\_\_\_\_ (14) 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.

\_\_\_\_\_ (15) The certificate holder shall ensure that outdoor play areas and outdoor play equipment are maintained to protect each child's safety.

#### **R430-50-7. Personnel.**

\_\_\_\_\_ (1) The certificate holder and all substitutes must:

\_\_\_\_\_ (a) be at least 18 years of age; and

\_\_\_\_\_ (b) have knowledge of and comply with all applicable laws and rules.

\_\_\_\_\_ (2) The certificate holder may make arrangements for a substitute who is at least 18 years old and who is capable of providing care, supervising children, and handling emergencies in the absence of the certificate holder.

\_\_\_\_\_ (3) Substitutes who care for children an average of 10 hours per week or more shall meet the training requirements of this rule.

\_\_\_\_\_ (4) In an unforeseeable emergency, such as a medical emergency requiring immediate care at a hospital or at an urgent care center or a lost child, the certificate holder may assign an emergency substitute who has not had a criminal background screening to care for the children. The certificate holder may use an emergency substitute for up to 24 hours for each emergency event.

\_\_\_\_\_ (a) The emergency substitute shall be at least 18 years of age.

\_\_\_\_\_ (b) The emergency substitute is not required to meet the training, first aid and CPR, and TB screening requirements of this rule.

\_\_\_\_\_ (c) The emergency substitute cannot be a person who has been convicted of a felony or misdemeanor or has been investigated for abuse or neglect by any federal, state, or local government agency. The emergency substitute must provide a signed, written declaration to the certificate holder that he or she is not disqualified under this subsection.

\_\_\_\_\_ (d) During the term of the emergency, the emergency substitute may be counted as a provider for the purpose of maintaining the required provider to child ratios.

\_\_\_\_\_ (e) The certificate holder shall make reasonable efforts to minimize the time that the emergency substitute has unsupervised contact with the children in care.

\_\_\_\_\_ (5) Any new non-emergency substitute or volunteer shall receive at least 2.5 hours of pre-service training prior to assuming caregiving duties. Pre-service training shall be documented in the individual's file and shall include the following topics:

\_\_\_\_\_ (a) the Department-approved certificate holder's written policies and procedures;

\_\_\_\_\_ (b) the Department-approved certificate holder's emergency and disaster plan;

\_\_\_\_\_ (c) the current child care licensing rules found in Sections R430-50-11 through 24;

\_\_\_\_\_ (d) a review of the information in the health assessment for each child in care;

\_\_\_\_\_ (e) 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;

\_\_\_\_\_ (f) recognizing the signs of homelessness and available assistance

\_\_\_\_\_ (g) preventing shaken baby syndrome, abusive head trauma, and coping with crying babies; and

\_\_\_\_\_ (h) prevention of sudden infant death syndrome and use of safe sleeping practices.

\_\_\_\_\_ (6) The certificate holder shall complete a minimum of 10 hours of child care training each year, based on the certificate date. A minimum of 5 hours of the required annual training shall be face-to-face instruction.

\_\_\_\_\_ (a) Documentation of annual training shall be kept on 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 at least once every two years:

\_\_\_\_\_ (i) a review of all of the current child care certificate rules found in Sections R430-50-11 through 24;

\_\_\_\_\_ (ii) a review of the Department approved certificate holder's written policies and procedures and emergency and disaster plan, 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;

\_\_\_\_\_ (v) recognizing the signs and symptoms of homelessness and available assistance;

\_\_\_\_\_ (vi) positive guidance;

\_\_\_\_\_ (vii) preventing shaken baby syndrome and abusive head trauma, and coping with crying babies; and

\_\_\_\_\_ (ii) prevention of sudden infant death syndrome and use of safe sleeping practices.

**R430-50-8. Administration.**

\_\_\_\_\_ (1) The certificate holder is responsible for all aspects of the operation and management of the child care program.

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

\_\_\_\_\_ (3) The certificate holder 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 certificate holder shall take all reasonable measures to protect the safety of each child in care. The certificate holder shall not engage in activity or allow conduct that unreasonably endangers any child in care.

\_\_\_\_\_ (5) Either the certificate holder or a substitute with authority to act on behalf of the certificate holder shall be present whenever there is a child in care.

\_\_\_\_\_ (6) Each week, the certificate holder shall be present at the home at least 50% of the time that one or more children are in care.

\_\_\_\_\_ (7) There shall be a working telephone in the home. The certificate holder shall inform the parents of each child in care and the Department of any changes to the certificate holder'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 certificate holder shall train and supervise all substitutes to:

\_\_\_\_\_ (a) ensure their compliance with this rule;

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

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

\_\_\_\_\_ (10) The certificate holder shall submit to the Department written policies and procedures for approval on a form provided by Child Care Licensing.

**R430-50-9. Records.**

\_\_\_\_\_ (1) The certificate holder shall maintain on-site for review by the Department during any inspection the following general records:

\_\_\_\_\_ (a) current animal vaccination records as required in R430-50-22(1)(b);

\_\_\_\_\_ (b) a six week record of child attendance, as required in R430-50-13(3);

\_\_\_\_\_ (c) a current local health department kitchen inspection;

\_\_\_\_\_ (d) an initial local fire department clearance for all areas of the home being used for care; and

\_\_\_\_\_ (e) copy of the current background screening card issued by the Department for all providers, volunteers, and each person age 12 and older who resides in the certificate holder's home;

\_\_\_\_\_ (2) The certificate holder shall maintain on-site for review by the Department during any inspection the following records for each enrolled child:

\_\_\_\_\_ (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 a provider is unable to contact the parent;

\_\_\_\_\_ (vi) child health information, as required in R430-50-14(7); and

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

\_\_\_\_\_ (b) current immunization records or documentation of a legally valid exemption, as specified in R430-50-14(5) and (6);

\_\_\_\_\_ (c) a completed transportation permission form, if transportation services are offered to any child in care; and

\_\_\_\_\_ (d) a six week record of medication permission forms, and a six week record of medications actually administered, as specified in R430-50-17(3) and R430-50-17(5)(f), if medications are administered to any child in care.

\_\_\_\_\_ (3) The certificate holder shall maintain on-site for review by the Department during any inspection the following records for the certificate holder and each non-emergency substitute:

\_\_\_\_\_ (a) orientation training documentation for all non-emergency substitutes as required in R430-50-7(5);

\_\_\_\_\_ (b) annual training documentation for the past two years as required in R430-50-7(6)(a); and

\_\_\_\_\_ (c) current first aid and CPR certification, as required in R430-50-10(2) and R430-50-20(3)(d).

\_\_\_\_\_ (4) The certificate holder shall maintain on-site for review by the Department during any inspection orientation training documentation for each volunteer as required in R430-50-7(5).

\_\_\_\_\_ (5) The certificate holder shall ensure that information in any child's file is not released without written parental permission.

**R430-50-10. Emergency Preparedness.**

(1) The certificate holder shall post the home's street address and emergency numbers, including ambulance, fire, police, and poison control, near the telephone.

(2) At least one adult at the facility, at all times when children are in care, shall maintain 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 certificate holder shall submit to the Department a written emergency and disaster plan for approval on a form provided by Child Care Licensing.

(4) The certificate holder shall ensure that the emergency and disaster plan is followed in the event of an emergency.

(5) The certificate holder shall conduct fire evacuation drills semi-annually. Drills shall include complete exit of all children and staff from the home.

(6) The certificate holder shall conduct drills for disasters other than fires at least once every 12 months.

(7) The certificate holder shall vary the days and times on which fire and other disaster drills are held.

**R430-50-11. Supervision and Ratios.**

(1) The certificate holder or a substitute shall be physically present on-site and provide care and direct supervision of each child at all times, both indoors and outdoors. Direct care and supervision of each child includes:

(a) awareness of and responsibility for each child in care, including being near enough to intervene if needed;

(b) ensuring that there is a provider present inside the home when a child in care is inside the home, and a provider present in the outdoor play area when a child in care is outdoors, except as allowed in subsection (2) below for school age children; and

(c) monitoring of each sleeping infant in one of the following ways:

(i) by placing each infant for sleep in a location where the infant is within sight and hearing of a provider; or

(ii) by in-person observation of each sleeping infant at least once every 15 minutes;

(2) A provider shall actively supervise each child during outdoor play to minimize the risk of injury to a child. A provider may allow only school age children to play outdoors while the provider is indoors, if:

(a) a provider can hear the children playing outdoors; and

(b) the children playing outdoors are in an area completely enclosed within a 4 foot high fence or wall, or a solid natural barrier that is at least 4 feet high.

(3) The certificate holder may permit a child to participate in supervised out of the home activities without the certificate holder if:

(a) the certificate holder has prior written permission from the child's parent for the child's participation; and

(b) the certificate holder has clearly assigned the responsibility for the child's whereabouts and supervision to a responsible adult who accepts responsibility for the care and supervision of the child throughout the period of the out of home activity.

(4) The maximum allowed number of children in care at any one time is eight children, including no more than two children

under the age of two. The number of children in care includes the providers' own children under the age of four.

(5) The total number of children in care may be further limited based on square footage, as found in Subsection R430-50-4(5) through (7).

**R430-50-12. Injury Prevention.**

(1) The certificate holder shall ensure that the home, outdoor play area, toys, and equipment are maintained and used in a safe manner to prevent injury to children.

(2) The certificate holder shall ensure that the indoor environment is free of tripping hazards such as unsecured flooring or cords in walkways.

(3) Areas accessible to children shall be free of unstable heavy equipment, furniture, or other items that a child could pull down on himself or herself.

(4) The following items shall be inaccessible to each child in care:

(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, e-cigarettes, e-juice, e-liquids, open containers of 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, chains, and wires 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, empty 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 certificate holder shall ensure that all toxic or hazardous chemicals are stored 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) If a wading pool is used:

(a) a provider must be at the pool supervising each child whenever there is water in the pool;

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

(c) the pool shall be emptied and sanitized after each use; and

~~\_\_\_\_\_ (d) before each child in care uses the pool, the certificate holder shall obtain parental permission for the child to use the pool.~~

~~\_\_\_\_\_ (10) If there is a swimming pool on the premises that is not emptied after each use:~~

~~\_\_\_\_\_ (a) a provider must be at the pool supervising each child whenever a child in care is using the pool or has access to the pool;~~

~~\_\_\_\_\_ (b) diapered children must wear swim diapers and rubber pants whenever they are in the pool;~~

~~\_\_\_\_\_ (c) the certificate holder shall ensure that children are protected from unintended access to the pool in one of the following ways:~~

~~\_\_\_\_\_ (i) the pool is enclosed within a fence or other solid barrier at least four feet high that is kept locked whenever the pool is not in use by any child in care; or~~

~~\_\_\_\_\_ (ii) the pool has a properly working safety cover that meets ASTM Standard F1346, and the safety cover is in place whenever the pool is not in use by any child in care;~~

~~\_\_\_\_\_ (d) the certificate holder shall maintain the pool in a safe manner;~~

~~\_\_\_\_\_ (e) the certificate holder shall meet all applicable state and local laws and ordinances related to the operation of a swimming pool;~~

~~\_\_\_\_\_ (f) if the pool is over six feet deep, there shall be a Red Cross certified life guard on duty, or a lifeguard certified by another agency that the certificate holder can demonstrate to the Department to be equivalent to Red Cross certification, any time any child in care has access to the pool; and~~

~~\_\_\_\_\_ (g) before each child in care uses the pool, the certificate holder shall obtain parental permission for the child to use the pool.~~

~~\_\_\_\_\_ (11) If there is a hot tub on the premises with water in it, the certificate holder shall ensure that children in care are protected from unintended access to the hot tub in one of the following ways:~~

~~\_\_\_\_\_ (a) it shall have a properly working locking cover that is kept locked whenever there is any child in care on the premises; or~~

~~\_\_\_\_\_ (b) it shall be surrounded by a four foot fence.~~

~~\_\_\_\_\_ (12) If there is a trampoline on the premises that is accessible to any child in care, the certificate holder shall ensure compliance with the following requirements:~~

~~\_\_\_\_\_ (a) A provider must be at the trampoline supervising its use whenever any child in care is on the trampoline.~~

~~\_\_\_\_\_ (b) Only one person at a time may use a trampoline.~~

~~\_\_\_\_\_ (c) No child in care shall be allowed to do somersaults or flips on the trampoline.~~

~~\_\_\_\_\_ (d) The trampoline must have shock absorbing pads that completely cover its springs, hooks, and frame.~~

~~\_\_\_\_\_ (e) The trampoline must be placed at least 6' away from any structure or object onto which a child could fall, including playground equipment, trees, and fences. If the trampoline is completely enclosed within properly installed netting that is in good repair and is at least 6' tall, and that is used as specified by the manufacturer, the trampoline must be placed at least 3' away from any structure or object onto which a child could fall, including playground equipment, trees, and fences.~~

~~\_\_\_\_\_ (f) There shall be no ladders near the trampoline.~~

~~\_\_\_\_\_ (g) No child in care shall be allowed to play under the trampoline when it is in use.~~

~~\_\_\_\_\_ (h) A parent of each child in care who uses the trampoline shall sign a Department approved permission form before his or her child uses the trampoline.~~

~~\_\_\_\_\_ (i) The trampoline shall be placed over grass or six inches of protective cushioning, which shall extend six feet from the perimeter~~

~~of the trampoline frame, or three feet from the perimeter of the trampoline frame if a net is used as specified above in subsection (c).~~

#### **~~R430-50-13. Parent Notification and Child Security.~~**

~~\_\_\_\_\_ (1) The certificate holder shall either post or, upon enrollment, give each parent a copy of the Department's child care guide.~~

~~\_\_\_\_\_ (2) At all times when their child is in care, parents shall have access to those areas of the certificate holder's home and outdoor area that are used for child care.~~

~~\_\_\_\_\_ (3) The certificate holder shall ensure that a daily attendance record is maintained to document each enrolled child's attendance.~~

~~\_\_\_\_\_ (4) Only parents or persons with written authorization from the parent may pick up any child. In an emergency, a 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.~~

~~\_\_\_\_\_ (5) The certificate holder shall ensure that parents are informed of every incident, accident, or injury involving their child within 24 hours of occurrence.~~

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

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

#### **~~R430-50-14. Child Health.~~**

~~\_\_\_\_\_ (1) The certificate holder shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.~~

~~\_\_\_\_\_ (2) All providers 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 alcohol, illegal substances, or sexually explicit material on the premises or in vehicles used to transport children is prohibited any time that a child is in care.~~

~~\_\_\_\_\_ (4) At any time when a child is in care, the provider shall ensure that tobacco is not used:~~

~~\_\_\_\_\_ (a) in the home, garage, or any other building used by a child in care;~~

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

~~\_\_\_\_\_ (c) within 25 feet of any entrance to the home, garage, or any other building occupied by a child in care; or~~

~~\_\_\_\_\_ (d) in any outdoor area where a child in care plays, or within 25 feet of any outdoor area where a child in care plays.~~

~~\_\_\_\_\_ (5) The certificate holder shall not enroll any child for care 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.~~

~~\_\_\_\_\_ (6) The certificate holder shall not provide ongoing care to a child without documentation of:~~

\_\_\_\_\_ (a) proof of current immunizations as required by Utah law; or

\_\_\_\_\_ (b) written documentation of an immunization exemption due to personal, medical or religious reasons.

\_\_\_\_\_ (7) The certificate holder shall not admit any child for care without the following written health information from the parent:

\_\_\_\_\_ (a) known allergies;

\_\_\_\_\_ (b) acute and chronic medical conditions;

\_\_\_\_\_ (c) instructions for special or non-routine daily health care;

\_\_\_\_\_ (d) current medications; and,

\_\_\_\_\_ (e) any other special health instructions for the certificate holder.

\_\_\_\_\_ (8) If the parent of a child in care has informed the provider that his or her child has a food allergy, that child shall not be given the food or beverage they are allergic to.

\_\_\_\_\_ (9) The certificate holder shall ensure that each child's parent reviews, updates, and signs or initials the child's health information at least annually.

#### **R430-50-15. Child Nutrition.**

\_\_\_\_\_ (1) If food service is provided:

\_\_\_\_\_ (a) The certificate holder shall ensure that his or her meal service complies with local health department food service regulations.

\_\_\_\_\_ (b) The current week's menu shall be available for parent review.

\_\_\_\_\_ (2) The certificate holder shall ensure that each child in care is offered a meal or a snack at least once every three hours.

\_\_\_\_\_ (3) Providers shall serve each child'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 child's hands. The provider shall not place food on a bare table.

\_\_\_\_\_ (4) The certificate holder shall ensure that food and drink brought in by parents for an individual child's use is labeled with the child's name or another unique identifier, and refrigerated if needed. Children in care shall not be served food or beverages that were brought in for another child.

#### **R430-50-16. Infection Control.**

\_\_\_\_\_ (1) All providers and volunteers shall wash their hands with soap and running water at the following times:

\_\_\_\_\_ (a) before handling or preparing food or bottles;

\_\_\_\_\_ (b) before and after eating meals and snacks or feeding a child;

\_\_\_\_\_ (c) after diapering each child;

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

\_\_\_\_\_ (e) after coming into contact with any body fluid;

\_\_\_\_\_ (f) after playing with or handling animals;

\_\_\_\_\_ (g) when coming in from outdoors; and

\_\_\_\_\_ (h) before administering medication.

\_\_\_\_\_ (2) The certificate holder shall ensure that each child washes his or her hands with soap and 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 any body fluid; and

\_\_\_\_\_ (d) when coming in from outdoors.

\_\_\_\_\_ (3) During outdoor play time, the requirements of Subsections (1) and (2) may be met by having each provider, volunteer, and child clean his or her hands with individual disposable wet wipes and hand sanitizer.

\_\_\_\_\_ (4) The certificate holder shall ensure that toilet paper is accessible to each child, and that it is kept in a dispenser.

\_\_\_\_\_ (5) The certificate holder shall ensure that children are taught proper hand washing techniques, and shall oversee hand washing whenever possible.

\_\_\_\_\_ (6) 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 a provider on more than one child. Each child's items shall be stored so that they do not touch another child's items.

\_\_\_\_\_ (7) The certificate holder shall ensure that all washable toys and materials are cleaned and sanitized as needed.

\_\_\_\_\_ (8) 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 certificate holder shall ensure that all stuffed animals, cloth dolls, dress-up clothes, and pillows or covers are washed after each 5 days of use, or more often if needed.

\_\_\_\_\_ (9) If a water play table or tub is used, the certificate holder shall ensure that the table or tub is washed and sanitized daily, and that each child washes his or her hands prior to engaging in the activity.

\_\_\_\_\_ (10) Persons with contagious TB shall not work with, assist with, or be present with any child in care.

\_\_\_\_\_ (11) A provider shall promptly change a child's clothing if the child has a toileting accident.

\_\_\_\_\_ (12) If a child uses a potty chair, the certificate holder shall ensure that it is cleaned and sanitized after each use.

\_\_\_\_\_ (13) Except for diaper changes, which are covered in Section R430-50-23, the certificate holder shall ensure that the following precautions are taken when cleaning up blood, urine, feces, and vomit.

\_\_\_\_\_ (a) The person cleaning up the substance shall wear waterproof gloves;

\_\_\_\_\_ (b) the surface shall be cleaned using a detergent solution;

\_\_\_\_\_ (c) the surface shall be rinsed with clean water;

\_\_\_\_\_ (d) the surface shall be sanitized;

\_\_\_\_\_ (e) if disposable materials such as paper towels or other absorbent materials are used to clean up the body fluid, they shall be disposed of in a leakproof plastic bag;

\_\_\_\_\_ (f) if non-disposable materials, such as a cleaning cloth, mop, or re-usable rubber gloves are used to clean up the body fluid, they shall be washed and sanitized before reuse; and

\_\_\_\_\_ (g) the person cleaning up the fluid shall wash his or her hands after cleaning up the body fluid.

\_\_\_\_\_ (14) The certificate holder shall ensure that any child who is ill with an infectious disease is separated from any other children in care in a safe, supervised location.

\_\_\_\_\_ (15) The certificate holder shall ensure that a parent of any child who becomes ill after arrival is contacted as soon as the illness is observed or suspected.

\_\_\_\_\_ (16) The certificate holder shall ensure that the parents of every child in care are informed when any person in the home or child in care has an infectious disease or parasite. Parents shall be notified the day the infectious disease or parasite is discovered.

#### **R430-50-17. Medications.**

\_\_\_\_\_ (1) All over-the-counter and prescription medications shall:

\_\_\_\_\_ (a) be labeled with the child's name;

\_\_\_\_\_ (b) be kept in the original or pharmacy container;



~~(c) have the original label; and;~~  
~~(d) have child-safety caps.~~  
~~(2) The certificate holder shall ensure that all non-refrigerated over-the-counter and prescription medication is inaccessible to children. The certificate holder shall ensure that all refrigerated over-the-counter and prescription medication is placed in a waterproof container to avoid contamination between food and medication.~~  
~~(3) The certificate holder shall have a written medication-permission form completed and signed by the parent prior to the administering of any over-the-counter or prescription medication brought in by a parent for his or her 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.~~
- ~~(4) If the certificate holder keeps over-the-counter medication that is not brought in by a parent for his or her 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.~~
- ~~(5) When administering medication, the person administering the medication shall:~~
  - ~~(a) wash his or her hands;~~
  - ~~(b) if the parent supplies the medication, check the medication label to confirm the child's name;~~
  - ~~(c) if the parent supplies the medication, 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) if the certificate holder supplies the medication, check the product package to ensure that a child is not given a dosage larger than that recommended by the manufacturer;~~
  - ~~(e) administer the medication; and~~
  - ~~(f) 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.~~
- ~~(6) The certificate holder shall ensure that any adverse reaction to a medication or any error in administration is reported to the parent immediately upon recognizing the error or reaction, or after notifying emergency personnel if the reaction is life threatening.~~

**R430-50-18. Napping.**

~~(1) Sleeping equipment may not block exits at any time.~~

**R430-50-19. Child Discipline.**

~~(1) The certificate holder shall inform non-emergency substitutes, parents, and children of the certificate holder's behavioral expectations for children.~~  
~~(2) A provider may use gentle, passive restraint with a child only when it is needed to stop the child from injuring himself or herself or others or from destroying property.~~  
~~(3) Disciplinary 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 (2) above;~~
- ~~(c) shouting at any child;~~
- ~~(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.~~

**R430-50-20. Activities.**

~~(1) The certificate holder shall offer daily activities to support each child's healthy physical, including gross motor, social-emotional, and cognitive language development.~~  
~~(2) The certificate holder shall ensure that the toys and equipment necessary to carry out the activities are accessible to children.~~  
~~(3) If off-site activities are offered:~~

- ~~(a) the certificate holder shall obtain parental consent for off-site activities in advance;~~
- ~~(b) the certificate holder shall accompany the children and shall take a copy of each child's emergency contact information.~~
- ~~(c) the certificate holder shall maintain required provider to child ratios and direct supervision during the activity;~~
- ~~(d) at least one provider present 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. And~~
- ~~(e) the certificate holder shall ensure that there is a way for each provider, volunteer, and child to wash his or her hands as specified in R430-50-16(1) and (2). If there is no source of running water, providers, volunteers, and children may clean their hands with individual disposable wet wipes and hand sanitizer.~~

~~(4) If off-site swimming activities are offered, providers shall remain with the children during the activity, and lifeguards and pool personnel shall not count toward the provider to child ratio.~~

**R430-50-21. Transportation.**

~~(1) Any vehicle used for transporting any child in care 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) be maintained in a safe condition and have a current vehicle registration and safety inspection;~~

- ~~\_\_\_\_\_ (d) be maintained in a clean condition; and~~
- ~~\_\_\_\_\_ (e) maintain temperatures between 60-90 degrees Fahrenheit when in use;~~
- ~~\_\_\_\_\_ (2) The adult transporting any child in care shall:~~
  - ~~\_\_\_\_\_ (a) have and carry with him or her a current valid Utah driver's license, for the type of vehicle being driven, whenever he or she is transporting any child in care;~~
  - ~~\_\_\_\_\_ (b) have with him or her a copy of each child's emergency contact information;~~
  - ~~\_\_\_\_\_ (c) ensure that each child in care being transported is wearing an appropriate individual safety restraint;~~
  - ~~\_\_\_\_\_ (d) ensure that each child is always attended by an adult while 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.~~

**R430-50-22. Animals.**

- ~~\_\_\_\_\_ (1) The certificate holder shall inform parents of the types of animals permitted on the premises.~~
- ~~\_\_\_\_\_ (2) The certificate holder shall ensure that all animals on the premises and accessible to any child in care :
 
  - ~~\_\_\_\_\_ (a) are clean and free of obvious disease or health problems that could adversely affect any child in care; and~~
  - ~~\_\_\_\_\_ (b) have current vaccinations for all vaccine preventable diseases that are transmissible to humans. The certificate holder shall have documentation of the vaccinations.~~~~
- ~~\_\_\_\_\_ (3) The certificate holder shall ensure that there is no animal on the premises that has a history of dangerous, attacking, or aggressive behavior, or a history of biting even one person.~~
- ~~\_\_\_\_\_ (4) The certificate holder shall ensure that no child in care assists with the cleaning of animals or animal cages, pens, or equipment.~~
- ~~\_\_\_\_\_ (5) The certificate holder shall ensure that there is no animal or animal equipment in food preparation or eating areas during food preparation or eating times.~~
- ~~\_\_\_\_\_ (6) The certificate holder shall ensure that no child in care handles reptiles or amphibians while in care.~~

**R430-50-23. Diapering:**

- ~~\_\_\_\_\_ If children in care are diapered on the premises, the following applies:~~
  - ~~\_\_\_\_\_ (1) The diapering area shall not be located in a food preparation or eating area.~~
  - ~~\_\_\_\_\_ (2) Children shall not be diapered directly on the floor, or on any surface used for another purpose.~~
  - ~~\_\_\_\_\_ (3) The diapering surface shall be smooth, waterproof, and in good repair.~~
  - ~~\_\_\_\_\_ (4) A provider shall clean and sanitize the diapering surface after each diaper change, or use a disposable non-permeable diapering surface that is thrown away after each diaper change.~~
  - ~~\_\_\_\_\_ (5) The provider shall wash his or her hands after each diaper change.~~
  - ~~\_\_\_\_\_ (6) The provider shall place soiled disposable diapers in a container that has a plastic lining and a tightly fitting lid, or place soiled diapers directly in an outdoor garbage container that has a tightly fitting lid or is inaccessible to children.~~

- ~~\_\_\_\_\_ (7) The certificate holder shall ensure that each child's diaper is checked at least once every two hours, and that each child's diaper is changed promptly if it is wet or soiled. If a child is napping at the end of a two-hour period, the child's diaper must be checked when the child awakes.~~

**R430-50-24. Infant and Toddler Care.**

- ~~\_\_\_\_\_ If the certificate holder cares for infants or toddlers, the following applies:~~
  - ~~\_\_\_\_\_ (1) If an infant is not able to sit upright and hold his or her own bottle, a provider shall hold the infant during bottle feeding. Bottles shall not be propped.~~
  - ~~\_\_\_\_\_ (2) A provider shall clean and sanitize high chair trays prior to each use.~~
  - ~~\_\_\_\_\_ (3) A provider shall cut solid foods for infants into pieces no larger than 1/4 inch in diameter. A provider shall cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.~~
  - ~~\_\_\_\_\_ (4) If there is more than one infant or toddler in care, baby food, formula, and breast milk for each child that is brought from home must be labeled with the child's name or another unique identifier.~~
  - ~~\_\_\_\_\_ (5) Baby food, formula, and breast milk that is brought from home for an individual child's use must be:
 
    - ~~\_\_\_\_\_ (a) kept refrigerated if needed; and~~
    - ~~\_\_\_\_\_ (b) 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.~~~~
  - ~~\_\_\_\_\_ (6) The certificate holder shall ensure that formula and milk, including breast milk, is discarded after each feeding, or within two hours of initiating a feeding.~~
  - ~~\_\_\_\_\_ (7) To prevent burns, a provider shall shake each heated bottle and test it for temperature before the bottle is fed to a child.~~
  - ~~\_\_\_\_\_ (8) If there is more than one infant or toddler in care, pacifiers and bottles shall be:
 
    - ~~\_\_\_\_\_ (a) labeled with each child's name or another unique identifier; or~~
    - ~~\_\_\_\_\_ (b) washed and sanitized after each individual use, before use by another child.~~~~
  - ~~\_\_\_\_\_ (9) The certificate holder shall ensure that only one infant or toddler occupies any one piece of equipment, such as a crib, playpen, stroller, or swing, at any time, unless the equipment has individual seats for more than one child.~~
  - ~~\_\_\_\_\_ (10) The certificate holder shall ensure that infants sleep in equipment designed for sleep, such as a crib, bassinet, porta-crib or play pen. The certificate holder shall ensure that infants are not placed to sleep on mats or cots, or in bouncers, swings, car seats, or other similar pieces of equipment, unless the certificate holder has written permission from the infant's parent.~~
  - ~~\_\_\_\_\_ (11) The certificate holder shall ensure that each crib used by a child in care:
 
    - ~~\_\_\_\_\_ (a) has a tight fitting mattress;~~
    - ~~\_\_\_\_\_ (b) has slats spaced no more than 2-3/8 inches apart;~~
    - ~~\_\_\_\_\_ (c) has at least 20 inches from the top of the mattress to the top of the crib rail, or at least 12 inches from the top of the mattress to the top of the crib rail if the child using the crib cannot sit up without assistance;~~
    - ~~\_\_\_\_\_ (d) does not have strings, cords, ropes, or other entanglement hazards strung upon the crib rails or within reach of the child. And~~~~

- ~~(e) meet CPSC crib standards.~~
- ~~(12) The certificate holder shall ensure that infants are not placed on their stomachs for sleeping, unless there is documentation from a health care provider for treatment of a medical condition.~~
- ~~(13) The certificate holder shall ensure that each infant and toddler is allowed to follow his or her own pattern of sleeping and eating.~~
- ~~(14) Infant walkers with wheels are prohibited.~~
- ~~(15) The certificate holder shall ensure that infants and toddlers do not have access to objects made of styrofoam.~~
- ~~(16) The certificate holder shall ensure that a provider responds 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.~~
- ~~(17) The certificate holder shall ensure that awake infants and toddlers receive positive physical stimulation and positive verbal interaction with a provider at least once every 20 minutes.~~
- ~~(18) The certificate holder shall ensure that awake infants and toddlers are not 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.~~
- ~~(19) The certificate holder shall ensure that mobile infants and toddlers have freedom of movement in a safe area.~~
- ~~(20) To stimulate their healthy development, there shall be safe toys accessible to infants and toddlers. The certificate holder shall ensure that there are enough toys for each child in the group to be engaged in play with toys.~~
- ~~(21) The certificate holder shall ensure that all toys used by infants and toddlers are cleaned and sanitized:~~
- ~~(a) weekly;~~
- ~~(b) after being put in a child's mouth before another child uses it; and~~
- ~~(c) after being contaminated by any body fluid.]~~

#### **R430-50-1. Legal Authority and Purpose.**

- ~~(1) This rule is enacted and enforced in accordance with Utah Code, Title 26, Chapter 39.~~
- ~~(2) This rule establishes the foundational standards necessary to protect the health and safety of children in residential child care facilities and defines the general procedures and requirements to obtain and maintain a certificate to provide residential child care.~~

#### **R430-50-2. Definitions.**

- ~~(1) "Applicant" means a person or business who has applied for a new or a renewal of a license, certificate, or exemption from Child Care Licensing.~~
- ~~(2) "ASTM" means American Society for Testing and Materials.~~
- ~~(3) "Background Finding" means information in a background screening that may result in a denial from Child Care Licensing.~~
- ~~(4) "Background Screening Denial" means that an individual has failed the background screening and is prohibited from being involved with a child care facility.~~
- ~~(5) "Barrier" means an enclosing structure such as a fence, wall, bars, railing, or solid panel to prevent accidental or deliberate movement through or access to something.~~
- ~~(6) "Body Fluid" means blood, urine, feces, vomit, mucus, and/or saliva.~~

- ~~(7) "Capacity" means the maximum number of children for whom care can be provided at any given time.~~
- ~~(8) "Caregiver-to-Child Ratio" means the number of caregivers responsible for a specific number of children.~~
- ~~(9) "CCL" means the Child Care Licensing Program in the Department of Health that is delegated with the responsibility to enforce the Utah Child Care Licensing Act.~~
- ~~(10) "Child Care" means continuous care and supervision of 5 or more qualifying children, that is:~~
- ~~(a) in place of care ordinarily provided by a parent in the parent's home,~~
- ~~(b) for less than 24 hours a day, and~~
- ~~(c) for direct or indirect compensation.~~
- ~~(11) "Child Care Hours" means the days and times during which the provider is open for business.~~
- ~~(12) "Child Care Program" means a person or business that offers child care.~~
- ~~(13) "Choking Hazard" means an object or a removable part on an object with a diameter of less than 1-1/4 inch and a length of less than 2-1/4 inches that could be caught in a child's throat blocking their airway and making it difficult or impossible to breathe.~~
- ~~(14) "Conditional Status" means that the provider is at risk of losing their certificate because compliance with licensing rules has not been maintained.~~
- ~~(15) "Covered Individual" means any of the following individuals involved with a child care facility:~~
- ~~(a) an owner;~~
- ~~(b) an employee;~~
- ~~(c) a caregiver;~~
- ~~(d) a volunteer, except a parent of a child enrolled in the child care program;~~
- ~~(e) an individual age 12 years or older who resides in the facility; and~~
- ~~(f) anyone who has unsupervised contact with a child in care.~~
- ~~(16) "CPSC" means the Consumer Product Safety Commission.~~
- ~~(17) "Department" means the Utah Department of Health.~~
- ~~(18) "Designated Play Surface" means any accessible elevated surface for standing, walking, crawling, sitting or climbing; or an accessible flat surface at least 2 by 2 inches in size and having an angle less than 30 degrees from horizontal.~~
- ~~(19) "Emotional Abuse" means behavior that could harm a child's emotional development, such as threatening, intimidating, humiliating, demeaning, criticizing, rejecting, using profane language, and/or using inappropriate physical restraint.~~
- ~~(20) "Entrapment Hazard" means an opening greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing a child's entrapment and strangulation.~~
- ~~(21) "Facility" means a child care program or the premises approved by the Department to be used for child care.~~
- ~~(22) "Group" means the children who are supervised by one or more caregivers in an individual room or in an area within a room that is defined by furniture or other partition.~~
- ~~(23) "Group Size" means the number of children in a group.~~
- ~~(24) "Guest" means an individual who is not a covered individual and is on the premises with the provider's permission.~~

(25) "Health Care Provider" means a licensed health professional, such as a physician, dentist, nurse practitioner, or physician's assistant.

(26) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence as described in the McKinney-Vento Act, McKinney-Vento Homeless Assistance Act (Title IX, Part A of ESSA)

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

(a) locked, such as in a locked room, cupboard, or drawer;  
(b) secured with a child safety device, such as a child safety cupboard lock or doorknob device;

(c) behind a properly secured child safety gate;  
(d) located in a cupboard or on a shelf that is at least 36 inches above the floor; or

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

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

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

(30) "Involved with Child Care" means to do any of the following at or for a child care facility certified by the Department:

(a) provide child care;  
(b) volunteer at a child care facility;  
(c) own, operate, direct, or be employed at a child care facility;

(d) reside at a facility where child care is provided; or  
(e) be present at a facility while care is being provided,

except for authorized guests or parents who are dropping off a child, picking up a child, or attending a scheduled event at the child care facility.

(31) "LIS Supported Finding" means background screening information from the Licensing Information System (LIS) database for child abuse and neglect, maintained by the Utah Department of Human Services.

(32) "McKinney-Vento Act" means a federal law that requires protections and services for children and youth who are homeless including those with disabilities. McKinney-Vento Homeless Assistance Act (Title IX, Part A of ESSA)

(33) "Over-the-Counter Medication" means medication that can be purchased without a written prescription including herbal remedies, vitamins, and mineral supplements.

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

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

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

(37) "Preschooler" means a child age 2 through 4 years old.

(38) "Provider" means the legally responsible person or business that holds a valid certificate from Child Care Licensing.

(39) "Qualifying Child" means:

(a) a child who is younger than 13 years old and is the child of a person other than the child care provider or caregiver.

(b) a child with a disability who is younger than 18 years old and is the child of a person other than the provider or caregiver, or

(c) a child who is younger than 4 years old and is the child of the provider or a caregiver.

(40) "Residential Child Care" means care that takes place in a child care provider's home.

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

(42) "Sanitize" means to use a chemical product to remove soil and bacteria from a surface or object.

(43) "School-Age Child" means a child age 5 through 12 years old.

(44) "Sexual Abuse" means abuse as defined in Utah Code, Title 76-5-404(1).

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

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

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

(a) a sandbox;  
(b) a stationary circular tricycle;  
(c) a sensory table; or  
(d) a playhouse that sits on the ground or floor and has no attached equipment, such as a slide, swing, or climber.

(48) "Strangulation Hazard" means something on which a child's clothes or drawstrings could become caught, or something in which a child could become entangled such as:

(a) a protruding bolt end that extends more than 2 threads beyond the face of the nut;

(b) hardware that forms a hook or leaves a gap or space between components such as an open S-hook; or

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

(49) "Substitute" means a person who assumes a caregiver's duties when the caregiver is not present.

(50) "Toddler" means a child age 12 through 23 months.

(51) "Unrelated Child" means a child who is not a "related child" as defined in R430-50-2(41).

(52) "Unsupervised Contact" means being with, caring for, communicating with, or touching a child in the absence of a caregiver or other employee who is at least 18 years old and has passed a Child Care Licensing background screening.

(53) "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.

(54) "Volunteer" means an individual who receives no form of direct or indirect compensation for their service.

(55) "Working Days" means the days of the week the Department is open for business.

#### **R430-50-3. Certificate Required.**

(1) A person or persons shall be certified as a residential child care provider under this rule if they provide child care:

(a) in the home where they reside;  
(b) in the absence of the child's parent;

(c) for 5 to 8 unrelated children;  
(d) for 4 or more hours per day;  
(e) on a regularly scheduled, ongoing basis; and  
(f) for direct or indirect compensation.  
(2) The Department may not certify, nor is a certificate is required for:  
(a) a person who cares for related children only; or  
(b) a person who provides care on a sporadic basis only.  
(3) According to Foster Care Services rule R501-12-4(8)(f), a provider may not be certified to provide child care in a facility that is also licensed to offer foster or respite care services, or another licensed or certified human services program.

**R430-50-4. Certificate Application, Renewal, Changes, and Variances.**

(1) An applicant for a new child care certificate shall submit to the Department:  
(a) an online application;  
(b) a copy of a current local fire clearance or a statement from the local fire authority that a fire inspection is not required;  
(c) a copy of a current local health department kitchen clearance for a facility providing food service or a statement from the local health department that a kitchen inspection is not required;  
(d) a copy of a current local business license or a statement from the city that a business license is not required;  
(e) a copy of a completed Department health and safety plan form;  
(f) CCL background screenings for all covered individuals as required in R430-50-8;  
(g) a current copy of the Department's new provider training certificate of attendance;  
(h) all required fees, which are nonrefundable; and  
(i) a signed Affidavit of Lawful Presence form provided by the Department.  
(2) The applicant shall pass a Department's inspection of the facility before a new certificate or a renewal is issued.  
(3) If the local fire authority states that a fire inspection is not required, a Department's CCL inspection for a new certificate or a renewal of a certificate shall include compliance with the following:  
(a) address numbers and/or letters shall be readable from the street;  
(b) address numbers and/or letters shall be at least 4 inches in height and 1/2 inch thick;  
(c) exit doors shall operate properly and shall be well maintained;  
(d) obstructions in exits, aisles, corridors, and stairways shall be removed;  
(e) items stored under exit stairs shall be removed;  
(f) there shall be unobstructed fire extinguishers that are of an X minimum rate and appropriate to the type of hazard, currently charged and serviced, and mounted not more than 5 feet above the floor;  
(g) there shall be working smoke detectors that are properly installed on each level of the building; and  
(h) boiler, mechanical, and electrical panel rooms shall not be used for storage.  
(4) If the local health department states that a kitchen inspection is not required, a Department's CCL inspection for a new

certificate or a renewal of a certificate shall include compliance with the following:

(a) the refrigerator shall be clean, in good repair, and working at or below 41 degrees Fahrenheit;  
(b) there shall be a working thermometer in the refrigerator;  
(c) there shall be a working stem thermometer available to check cook and hot hold temperatures;  
(d) cooks shall have a current food handler's permit available on-site for review by the Department;  
(e) reusable food holders, utensils, and food preparation surfaces shall be washed, rinsed, and sanitized with an approved sanitizer before each use;  
(f) chemicals shall be stored away from food and food service items;  
(g) food shall be properly stored, kept to the proper temperature, and in good condition; and  
(h) there shall be a working handwashing sink in the kitchen.  
(5) If the applicant does not complete the application process within 6 months of first submitting any portion of the application, the Department may deny the application and to be certified, the applicant shall reapply. This includes resubmitting all required documentation, repaying licensing fees, and passing another inspection of the facility.  
(6) The Department may deny an application for a certificate if, within the 5 years preceding the application date, the applicant held a license or a certificate that was:  
(a) closed under an immediate closure;  
(b) revoked;  
(c) closed as a result of a settlement agreement resulting from a notice of intent to revoke, a notice of revocation, or a notice of immediate closure;  
(d) voluntarily closed after an inspection of the facility found rule violations that would have resulted in a notice of intent to revoke or a notice of revocation had the provider not closed voluntarily; or  
(e) voluntarily closed having unpaid fees or civil money penalties issued by the Department.  
(7) Each child care certificate expires at midnight on the last day of the month shown on the certificate, unless the certificate was previously revoked by the Department, or voluntarily closed by the provider.  
(8) Within 30 to 90 days before a current certificate expires, the provider shall submit for renewal:  
(a) an online renewal request,  
(b) applicable renewal fees,  
(c) any previous unpaid fees,  
(d) a copy of a current business license,  
(e) a copy of a current fire inspection report, and  
(f) a copy of a current kitchen inspection report.  
(9) A provider who fails to renew their certificate by the expiration date may have an additional 30 days to complete the renewal process if they pay a late fee.  
(10) The Department may not renew a certificate for a provider who is no longer caring for children.  
(11) The provider shall submit a complete application for a new certificate at least 30 days before a change of the child care facility's location.

(12) The provider shall submit a complete application to amend an existing certificate at least 30 days before any of the following changes:

- (a) an increase or decrease of capacity, including any change to the amount of usable space where child care is provided;
- (b) a change in the name of the program;
- (c) a change in the regulation category of the program;
- (d) a change in the name of the provider; or
- (e) a transfer of business ownership to a spouse or to any other household member.

(13) The Department may amend a certificate after verifying that the applicant is in compliance with all applicable rules and required fees have been paid. The expiration date of the amended certificate remains the same as the previous certificate.

(14) A certificate is not assignable or transferable and shall only be amended by the Department.

(15) If an applicant or provider cannot comply with a rule but can meet the intent of the rule in another way, they may apply for a variance to that rule by submitting a request to the Department.

(16) The Department may:

- (a) require additional information before acting on the variance request, and
- (b) impose health and safety requirements as a condition of granting a variance.

(17) The provider shall comply with the existing rule until a variance is approved.

(18) If a variance is approved, the provider shall keep a copy of the written approval on-site for review by parents and the Department.

(19) The Department may grant variances for up to 12 months.

(20) The Department may revoke a variance if:

- (a) the provider is not meeting the intent of the rule as stated in their approved variance;
- (b) the provider fails to comply with the conditions of the variance; or
- (c) a change in statute, rule, or case law affects the basis for the variance.

#### **R430-50-5. Rule Violations and Penalties.**

(1) The Department may place a program's child care certificate on a conditional status for the following causes:

- (a) chronic, ongoing noncompliance with rules;
- (b) unpaid fees; or
- (c) a serious rule violation that places children's health or safety in immediate jeopardy.

(2) The Department shall establish the length of the conditional status and set the conditions that the child care provider shall satisfy to remove the conditional status.

(3) The Department may increase monitoring of the program that is on conditional status to verify compliance with rules.

(4) The Department may deny or revoke a certificate if the child care provider:

- (a) fails to meet the conditions of a certificate on conditional status;
- (b) violates the Child Care Licensing Act;
- (c) provides false or misleading information to the Department;

(d) misrepresents information by intentionally altering a certificate or any other document issued by the Department;

(e) refuses to allow authorized representatives of the Department access to the facility to ensure compliance with rules;

(f) refuses to submit or make available to the Department any written documentation required to verify compliance with rules;

(g) commits a serious rule violation that results in death or serious harm to a child, or that places a child at risk of death or serious harm; or

(h) has committed an illegal act that would exclude a person from having a certificate.

(5) Within 10 working days of receipt of a revocation notice, the provider shall submit to the Department the names and mailing addresses of the parents of each enrolled child so the Department can notify the parents of the revocation.

(6) The Department may order the immediate closure of a facility if conditions create a clear and present danger to any child in care and may require immediate action to protect their health or safety.

(7) Upon receipt of an immediate closure notice, the provider shall give the Department the names and mailing addresses of the parents of each enrolled child so the Department can notify the parents of the immediate closure.

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

(9) If a person is providing care for more than 4 unrelated children without the appropriate certificate, the Department may:

- (a) issue a cease and desist order, or
- (b) allow the person to continue operation if:
  - (i) the person was unaware of the need for a certificate or a license,
  - (ii) conditions do not create a clear and present danger to the children in care, and
  - (iii) the person agrees to apply for the appropriate certificate or license within 30 calendar days of notification by the Department.

(10) If a person providing care without the appropriate certificate agrees to apply for a certificate but does not submit an application and all required application documents within 30 days, the Department may issue a cease and desist order.

(11) A violation of any rule is punishable by an administrative civil money penalty of up to \$5,000 per day as provided in Utah Code, Section 26-39-601.

(12) Assessment of any civil money penalty does not prevent the Department from also taking action to deny, place on conditional status, revoke, immediately close, or refuse to renew a certificate.

(13) Assessment of any administrative civil money penalty under this section does not prevent court-ordered or other equitable remedies.

(14) The Department may deny an application or revoke a certificate for failure to pay any required fees, including fees for applications, late fees, returned checks, certificate changes, additional inspections, conditional monitoring inspections, background screenings, civil money penalties, and other fees assessed by the Department.

(15) An applicant or provider may appeal any Department decision within 30 days of being informed of the decision.

**R430-50-6. Administration and Children's Records.**

- (1) The provider shall:
- (a) be at least 18 years of age;
  - (b) pass a CCL background screening;
  - (c) demonstrate lawful presence in the United States;
  - (d) complete the new provider training offered by the Department; and
  - (e) complete at least 10 hours of child care training each year, based on the facility's certificate date.
- (2) The provider shall not engage in or allow conduct that endangers children in care; or is contrary to the health, morals, welfare, and safety of the public.
- (3) The provider shall have knowledge of and comply with all federal, state, and local laws, ordinances, and rules, and shall be responsible for the operation and management of a child care program.
- (4) The provider shall comply with licensing rules at all times when a child in care is present.
- (5) The provider shall post the original child care certificate on the facility premises in a place readily visible and accessible to the public.
- (6) The provider shall post a copy of the Department's Parent Guide at the facility for parent review during business hours, or give each parent a copy of the guide at enrollment.
- (7) The provider shall inform parents and the Department of any changes to the program's telephone number and other contact information within 48 hours of the change.
- (8) The provider shall establish, follow, and ensure that all staff and volunteers follow a written health and safety plan that is:
- (a) completed on the Department's required form;
  - (b) submitted to the Department for initial approval and any time changes are made to the plan;
  - (c) reviewed and updated as needed;
  - (d) signed and dated at least annually; and
  - (e) available for review by parents, staff, and the Department during business hours.
- (9) The provider shall ensure that each parent completes an admission and health assessment form for their child before the child is admitted into the child care program.
- (10) The admission and health assessment form shall include the following information:
- (a) child's name;
  - (b) child's date of birth;
  - (c) parent's name, address, and phone number, including a daytime phone number;
  - (d) names of people authorized by the parent to pick up the child;
  - (e) name, address, and phone number of a person to be contacted in case of an emergency if the provider is unable to contact the parent;
  - (f) if available, the name, address, and phone number of an out-of-area emergency contact person for the child;
  - (g) current emergency medical treatment and emergency transportation releases with the parent's signature;
  - (h) any known allergies of the child;
  - (i) any known food sensitivities of the child;
  - (j) any chronic medical conditions that the child may have;
  - (k) instructions for special or nonroutine daily health care of the child;

- (l) current ongoing medications that the child may be taking; and
  - (m) any other special health instructions for the caregiver.
- (11) The admission and health assessment form shall:
- (a) be reviewed, updated, and signed or initialed by the parent at least annually; and
  - (b) kept on-site for review by the Department.
- (12) Before admitting any child younger than 5 years of age into the child care program, including the provider's and employees' own children, the provider shall obtain the following documentation from the child's parent:
- (a) current immunizations, as required by Utah law;
  - (b) a medical schedule to receive required immunizations;
  - (c) a legal exemption; or
  - (d) a 90-day exemption for children who are homeless.
- (13) For each child younger than 5 years of age, including the provider's and employees' own children, the provider shall keep their current immunization records on-site for review by the Department.
- (14) The provider shall submit the annual immunization report to the Immunization Program in the Utah Department of Health by the date specified by the Department.
- (15) Each child's information shall be kept confidential and shall not be released without written parental permission.

**R430-50-7. Personnel and Training Requirements.**

- (1) The provider shall train and supervise employees and volunteers to ensure that they are qualified to:
- (a) meet the needs of the children as required by rule, and
  - (b) be in compliance with all licensing rules.
- (2) Each week, the provider shall be present at the home at least 50% of the time that any child is in care; and whenever a child is in care, the provider, a caregiver who is at least 18 years old, or a substitute with authority to act on behalf of the provider shall be present.
- (3) Caregivers shall:
- (a) be at least 18 years old;
  - (b) pass a CCL background screening;
  - (c) receive at least 2.5 hours of preservice training before beginning job duties;
  - (d) have knowledge of and follow all applicable laws and rules; and
  - (e) complete at least 10 hours of child care training each year, based on the facility's certificate date.
- (4) Substitutes shall:
- (a) be at least 18 years old;
  - (b) pass a CCL background screening;
  - (c) be capable of providing care, supervising children, and handling emergencies in the provider's absence;
  - (d) receive at least 2.5 hours of preservice training before beginning job duties; and
  - (e) complete at least 1/2 hour of child care training for each month they work 40 hours or more.
- (5) All other employees such as drivers, cooks, and clerks shall:
- (a) pass a CCL background screening;
  - (b) receive at least 2.5 hours of preservice training before beginning job duties, and
  - (c) have knowledge of and follow all applicable laws and rules.

\_\_\_\_\_ (6) Volunteers shall:  
\_\_\_\_\_ (a) pass a CCL background screening, and  
\_\_\_\_\_ (b) not have unsupervised contact with any child in care if the volunteer is younger than 18 years of age.  
\_\_\_\_\_ (7) Guests:  
\_\_\_\_\_ (a) shall not have unsupervised contact with any child in care, and  
\_\_\_\_\_ (b) are not required to pass a CCL background screening when they remain in the home for not more than 2 weeks.  
\_\_\_\_\_ (8) Any individual who stays in the home for more than 2 weeks shall be considered a household member and shall be required to pass a CCL background screening.  
\_\_\_\_\_ (9) Parents of children in care:  
\_\_\_\_\_ (a) shall not have unsupervised contact with any child in care except their own, and  
\_\_\_\_\_ (b) do not need a CCL background screening unless involved with child care in the facility.  
\_\_\_\_\_ (10) Household members who are:  
\_\_\_\_\_ (a) 12 to 17 years old shall pass a CCL background screening:  
\_\_\_\_\_ (b) 18 years of age or older shall pass a CCL background screening that includes fingerprints; and  
\_\_\_\_\_ (c) younger than 18 years of age shall not have unsupervised contact with any child in care including during offsite activities and transportation.  
\_\_\_\_\_ (11) Individuals who provide IEP or IFSP services such as physical, occupational, or speech therapists:  
\_\_\_\_\_ (a) are not required to have a CCL background screening as long as the child's parent has given permission for services to take place at the facility, and  
\_\_\_\_\_ (b) shall provide proper identification before having access to the facility or a child at the facility.  
\_\_\_\_\_ (12) Members from law enforcement or from Child Protective Services:  
\_\_\_\_\_ (a) are not required to have a CCL background screening, and  
\_\_\_\_\_ (b) shall provide proper identification before having access to the facility or a child at the facility.  
\_\_\_\_\_ (13) Preservice training shall include the following:  
\_\_\_\_\_ (a) job description and duties;  
\_\_\_\_\_ (b) current Department rule sections R430-50-7 through 24;  
\_\_\_\_\_ (c) the Department-approved health and safety plan that includes preparing for and responding to emergencies;  
\_\_\_\_\_ (d) prevention, signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;  
\_\_\_\_\_ (e) prevention of shaken baby syndrome and abusive head trauma, and coping with crying babies;  
\_\_\_\_\_ (f) prevention of sudden infant death syndrome (SIDS) and the use of safe sleeping practices;  
\_\_\_\_\_ (g) recognizing the signs of homelessness and available assistance;  
\_\_\_\_\_ (h) a review of the information in each child's health assessment; and  
\_\_\_\_\_ (i) an introduction and orientation to the children in care.  
\_\_\_\_\_ (14) Annual child care training shall include the following topics:  
\_\_\_\_\_ (a) current Department rule sections R430-50-7 through 24;

\_\_\_\_\_ (b) the Department-approved health and safety plan that includes preparing for and responding to emergencies;  
\_\_\_\_\_ (c) the prevention, signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;  
\_\_\_\_\_ (d) principles of child growth and development, including brain development;  
\_\_\_\_\_ (e) positive guidance and interactions with children;  
\_\_\_\_\_ (f) prevention of shaken baby syndrome and abusive head trauma, and coping with crying babies;  
\_\_\_\_\_ (g) prevention of sudden infant death syndrome (SIDS) and use of safe sleeping practices; and  
\_\_\_\_\_ (h) recognizing the signs of homelessness and available assistance.  
\_\_\_\_\_ (15) At least 5 of the 10 hours of annual child care training shall be face-to-face instruction.  
\_\_\_\_\_ (16) Documentation of each individual's annual child care training shall be kept on-site for review by the Department and include the following:  
\_\_\_\_\_ (a) training topic,  
\_\_\_\_\_ (b) date of the training,  
\_\_\_\_\_ (c) whether the training was face-to-face or non-face-to-face instruction,  
\_\_\_\_\_ (d) name of the person or organization that presented the training, and  
\_\_\_\_\_ (e) total hours or minutes of training.  
\_\_\_\_\_ (17) At least one staff member with a current Red Cross, American Heart Association, or equivalent first aid and infant/child CPR certification shall be present when children are in care:  
\_\_\_\_\_ (a) at the facility,  
\_\_\_\_\_ (b) in each vehicle transporting children, and  
\_\_\_\_\_ (c) at each offsite activity.  
\_\_\_\_\_ (18) CPR certification shall include hands-on testing.  
\_\_\_\_\_ (19) The following records for each covered individual shall be kept on-site for review by the Department:  
\_\_\_\_\_ (a) a copy of the current background screening card issued by the Department; and  
\_\_\_\_\_ (b) a current first aid and CPR certification, if required in rule.

#### **R430-50-8. Background Screenings.**

\_\_\_\_\_ (1) The provider shall ensure that an online CCL background screening form is submitted within 10 working days from when:  
\_\_\_\_\_ (a) a new covered individual becomes involved with the program,  
\_\_\_\_\_ (b) a new covered individual age 12 years or older begins living in the facility, and  
\_\_\_\_\_ (c) a child who resides in the facility turns 12 years old.  
\_\_\_\_\_ (2) Unless an exception is granted in rule, the provider shall ensure that a CCL background screening for each individual age 18 years or older includes fingerprints and fingerprints fees.  
\_\_\_\_\_ (3) The fingerprints shall be prepared by a local law enforcement agency or an agency approved by local law enforcement.  
\_\_\_\_\_ (4) If fingerprints are submitted through Live Scan (electronically), the agency taking the fingerprints shall follow the Department's guidelines.  
\_\_\_\_\_ (5) Fingerprints are not required if:



\_\_\_\_\_ (a) the covered individual has resided in Utah continuously for the past 5 years, or since the individual's 18th birthday and will only be involved with child care in a program that was licensed or certified prior to 1 July 2013; or

\_\_\_\_\_ (b) the covered individual has previously submitted fingerprints to the Department under this section for a national criminal history record check and has resided in Utah continuously since that time.

\_\_\_\_\_ (6) Background screenings are valid for 1 year and shall be renewed before the last day of the month listed on the covered individual's background screening card.

\_\_\_\_\_ (7) At least 2 weeks before the end of the month that is written on a covered individual's background screening card, the provider shall:

\_\_\_\_\_ (a) have the individual submit an online CCL background screening form,

\_\_\_\_\_ (b) authorize the individual's background screening form, and

\_\_\_\_\_ (c) pay all required fees.

\_\_\_\_\_ (8) Regardless of any exception in rule, if an in-state criminal background screening indicates that a covered individual age 18 years or older has a background finding, the Department may require that individual to submit fingerprints and fees in order for the Department to conduct a national criminal background screening for that individual.

\_\_\_\_\_ (9) The following background findings shall deny a covered individual from being involved with child care:

\_\_\_\_\_ (a) LIS supported findings,

\_\_\_\_\_ (b) the individual's name appears on the Utah or national sex offender registry,

\_\_\_\_\_ (c) any felony convictions,

\_\_\_\_\_ (d) any Misdemeanor A convictions, or

\_\_\_\_\_ (e) Misdemeanor B and C convictions for the reasons listed in R430-50-8(10).

\_\_\_\_\_ (10) The following convictions, regardless of severity, may result in a background screening denial:

\_\_\_\_\_ (a) unlawful sale or furnishing alcohol to minors;

\_\_\_\_\_ (b) sexual enticing of a minor;

\_\_\_\_\_ (c) cruelty to animals, including dogfighting;

\_\_\_\_\_ (d) bestiality;

\_\_\_\_\_ (e) lewdness, including lewdness involving a child;

\_\_\_\_\_ (f) voyeurism;

\_\_\_\_\_ (g) providing dangerous weapons to a minor;

\_\_\_\_\_ (h) a parent providing a firearm to a violent minor;

\_\_\_\_\_ (i) a parent knowing of a minor's possession of a dangerous weapon;

\_\_\_\_\_ (j) sales of firearms to juveniles;

\_\_\_\_\_ (k) pornographic material or performance;

\_\_\_\_\_ (l) sexual solicitation;

\_\_\_\_\_ (m) prostitution and related crimes;

\_\_\_\_\_ (n) contributing to the delinquency of a minor;

\_\_\_\_\_ (o) any crime against a person;

\_\_\_\_\_ (p) a sexual exploitation act;

\_\_\_\_\_ (q) leaving a child unattended in a vehicle; and

\_\_\_\_\_ (r) driving under the influence (DUI) while a child is present in the vehicle.

\_\_\_\_\_ (11) A covered individual with a Class A misdemeanor background finding not listed in R430-50-8(10) may be involved with child care when:

\_\_\_\_\_ (a) 10 or more years have passed since the Class A misdemeanor offense, and

\_\_\_\_\_ (b) there is no other conviction for the individual in the past 10 years.

\_\_\_\_\_ (12) A covered individual with a Class A misdemeanor background finding not listed in R430-50-8(10) may be involved with child care for up to 6 months if:

\_\_\_\_\_ (a) 5 to 9 years have passed since the offense,

\_\_\_\_\_ (b) there is no other conviction since the Class A misdemeanor offense,

\_\_\_\_\_ (c) the individual provides to the Department documentation of an active petition for expungement, and

\_\_\_\_\_ (d) the provider ensures that the individual does not have unsupervised contact with any child in care.

\_\_\_\_\_ (13) If a petition for expungement is denied, the covered individual shall no longer be involved with child care.

\_\_\_\_\_ (14) A covered individual shall not be denied if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred 10 or more years before the CCL background screening was conducted.

\_\_\_\_\_ (15) The Department may rely on the criminal background screening findings as conclusive evidence of the arrest warrant, arrest, charge, or conviction; and the Department may revoke, suspend, or deny a certificate or employment based on that evidence.

\_\_\_\_\_ (16) If the provider has a background screening denial, the Department may suspend or deny their certificate until the reason for the denial is resolved.

\_\_\_\_\_ (17) If a covered individual has a background screening denial, the Department may prohibit that individual from being employed by the child care program or residing at the facility until the reason for the denial is resolved.

\_\_\_\_\_ (18) If a covered individual is denied a certificate or employment based upon the criminal background screening and disagrees with the information provided by the Department of Public Safety, the covered individual may appeal the information as provided in Utah Code, Sections 77-18-10 through 77-18-14 and 77-18a-1.

\_\_\_\_\_ (19) If a covered individual disagrees with a supported finding on the Department of Human Services Licensing Information System (LIS):

\_\_\_\_\_ (a) the individual cannot appeal the supported finding to the Department of Health, and

\_\_\_\_\_ (b) the covered individual may appeal the finding to the Department of Human Services and follow the process established by the Department of Human Services.

\_\_\_\_\_ (20) Within 48 hours of becoming aware of a covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or supported LIS finding, the provider and the covered individual shall notify the Department. Failure to notify the Department within 48 hours may result in disciplinary action, including revocation of the certificate.

\_\_\_\_\_ (21) The Executive Director of the Department of Health may overturn a background screening denial under the following conditions:

\_\_\_\_\_ (a) the background finding is not a felony, and

\_\_\_\_\_ (b) the Executive Director determines that the nature of the background finding or mitigating circumstances do not pose a risk to children.

**R430-50-9. Facility.**

(1) There shall be at least 35 square feet of indoor space for each child in care, including the provider's children.

(2) 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.

(3) The following areas are not included when measuring indoor space for children's use:

- (a) bathrooms,
- (b) closets,
- (c) hallways, and
- (d) entryways.

(4) The maximum allowed capacity for a child care facility may be limited by local ordinances.

(5) The number of children in care at any given time shall not exceed the capacity identified on the certificate.

(6) The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint is tested for lead. If lead-based paint is found, the provider shall contact their local health department within 5 working days and follow required procedures for remediation of the lead hazard.

(7) Each room and indoor area that is used by children shall be ventilated by mechanical ventilation, or by windows that open and have screens.

(8) All rooms and areas that are used for child care shall have adequate light intensity for the safety of the children and the type of activity being conducted.

(9) There shall be a working telephone in the home, in each vehicle while transporting children, and during offsite activities.

(10) There shall be a working toilet and a working handwashing sink accessible to each nondiapered child in care.

(11) A bathroom that provides privacy shall be available for use by school-age children.

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

(a) the provider shall meet applicable state and local laws and ordinances related to the operation of a swimming pool and maintain the pool in a safe manner; and

(b) when not in use, the pool shall be enclosed within at least a 4-foot-high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises, or enclosed with a locked, properly working safety cover that meets ASTM Specification F1346-91.

(13) A hot tub on the premises with water in it shall be inaccessible to children by being:

- (a) kept locked with a properly working cover; or
- (b) enclosed within at least a 4-foot-high fence or solid barrier that is kept locked and that separates the hot tub from any other areas on the premises.

(14) The provider shall maintain buildings and outdoor areas in good repair and safe condition including:

- (a) ceilings, walls, and floor coverings;
- (b) lighting, bathroom, and other fixtures;
- (c) draperies, blinds, and other window coverings;
- (d) indoor and outdoor play equipment;

(e) furniture, toys, and materials accessible to the children;

(f) entrances, exits, steps, and walkways including keeping them free of ice, snow and other hazards.

(15) Accessible raised decks or balconies that are 5 feet or higher, and open basement stairwells that are 5 feet or deeper shall have protective barriers that are at least 3 feet high.

(16) If the house is subdivided, any part of the house is rented out, or any other area of the facility is shared including the outdoor area, the entire facility shall be inspected and covered individuals in the facility shall comply with rules, except when all of the following conditions are met:

(a) there is a signed rental/lease agreement between the provider and the individual responsible for or living in the other part of the house;

(b) there is a separate mailing address;

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

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

(e) there is no shared access to the outdoor area used for child care, or a qualified caregiver is present when children are using a shared outdoor area of the facility.

(17) If there is an outdoor area used by children, R430-50-9(18) through R430-50-9(23) apply:

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

(19) The outdoor area shall have at least 40 square feet of space for each child using the area at one time.

(20) The outdoor area shall be enclosed within a fence, wall, or solid natural barrier that is at least 4 feet high when the facility is on a street or within half a mile of a street that:

(a) has a speed of 25 miles per hour or higher, or

(b) has more than 2 lanes of traffic.

(21) The following hazards shall be separated from the children's outdoor area with a fence, wall, or solid natural barrier that is at least 4 feet high:

(a) barbed wire that is within 30 feet of the children's play area;

(b) livestock on or within 50 yards of the property line;

(c) dangerous machinery, such as farm equipment, on or within 50 yards of the property line;

(d) a drop-off of more than 5 feet on or within 50 yards of the property line; or

(e) a water hazard, such as a swimming pool, pond, ditch, lake, reservoir, river, stream, creek, or animal watering trough, on or within 100 yards of the property line.

(22) There shall be no gap 5 by 5 inches or greater in or under the fence.

(23) Whenever there are children in the outdoor area, there shall be shade available to protect them from excessive sun and heat.

**R430-50-10. Ratios and Group Size.**

(1) The provider shall maintain at least 1 caregiver for up to 8 children in care.

(2) There shall be no more than 2 children younger than 2 years old in care including the provider's and employee's own children.

(3) The provider's or an employee's child age 4 years or older shall not be counted in the caregiver-to-child ratio when the parent of the child is working at the facility.

**R430-50-11. Child Supervision and Security.**

(1) The provider shall ensure that caregivers provide and maintain active supervision of each child at all times:

(a) a caregiver shall be inside the home when any child in care is inside the home.

(b) a caregiver shall be in the outdoor area when any child younger than 5 years old is in the outdoor area.

(c) caregivers shall know the number of children in their care at all times, and

(d) caregivers' attention shall be focused on the children and not on the caregivers' own personal interests.

(2) A caregiver may allow only school-age children to play outdoors while the caregiver is indoors when:

(a) the caregiver can hear the children playing outdoors; and

(b) the children are in an area completely enclosed within a fence, wall, or solid natural barrier that is at least a 4 feet high.

(3) A caregiver shall monitor each sleeping infant by:

(a) placing each infant to sleep within the sight and hearing of the caregiver, or

(b) personally observing each sleeping infant at least once every 15 minutes.

(4) A child may participate in supervised offsite activities without the provider if:

(a) the provider has prior written permission from the child's parent for the child's participation, and

(b) the provider has clearly assigned the responsibility for the child's whereabouts and supervision to a responsible adult who accepts that responsibility throughout the period of the offsite activity.

(5) Whenever a child is in care, the child's parent shall have access to their child and the areas used to care for their child.

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

(a) each child is signed in and out;

(b) only parents or persons with written authorization from the parent may sign out a child;

(c) photo identification is required if the individual signing the child in or out is unknown to the provider;

(d) persons signing children in and out use identifiers, such as a signature, initials, or electronic code;

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

(f) there is written permission from their parents if school-age children sign themselves in and out.

(7) In an emergency, the caregiver shall accept the parent's verbal authorization to release a child when the caregiver can confirm the identity of:

(a) the person giving verbal authorization, and

(b) the person picking up the child.

**R430-50-12. Child Guidance and Interaction.**

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

(2) The provider shall inform parents, children, and those who interact with the children of the program's behavioral expectations and how any misbehavior will be handled.

(3) Individuals who interact with the children shall guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.

(4) Caregivers shall use gentle, passive restraint with children only when it is needed to stop children from injuring themselves or others, or from destroying property.

(5) Interactions with the children shall not include:

(a) any form of corporal punishment or any action that produces physical pain or discomfort such as hitting, spanking, shaking, biting, or pinching;

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

(c) shouting at children;

(d) any form of emotional abuse;

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

(f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.

(6) Any person who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in Utah Code Section 62A-4a-403 and Section 62A-4a-411.

**R430-50-13. Child Safety and Injury Prevention.**

(1) The building, outdoor area, toys, and equipment shall be used in a safe manner and as intended by the manufacturer to prevent injury to children.

(2) Harmful objects and hazards, such as the following, shall be inaccessible to children:

(a) poisonous and harmful plants;

(b) sharp objects, edges, corners, or points that could cut or puncture skin;

(c) for children younger than 3 years of age, choking hazards;

(d) strangulation hazards such as ropes, cords, chains, and wires attached to a structure and long enough to encircle a child's neck;

(e) tripping hazards such as unsecured flooring, rugs with curled edges, or cords in walkways;

(f) for children younger than 5 years of age, empty plastic bags large enough for a child's head to fit inside, latex gloves, and balloons; and

(g) standing water that is 2 inches or deeper and 5 by 5 inches or greater in diameter.

(3) Toxic or hazardous chemicals such as cleaners, insecticides, lawn products, and flammable materials shall be:

(a) inaccessible to children,

(b) used according to manufacturer instructions, and

(c) stored in containers labeled with their contents.

(4) Items and substances that could burn a child or start a fire shall be inaccessible, such as:

(a) matches or cigarette lighters;

(b) open flames;

(c) hot wax or other substances; and

(d) when in use, portable space heaters, wood burning stoves, and fireplaces of all types.

(5) Children shall be protected from items that cause electrical shock such as:

(a) live electrical wires; and

(b) for children younger than 5 years of age, electrical outlets and surge protectors without protective caps or safety devices when not in use.

(6) Unless used and stored in compliance with the Utah Concealed Weapons Act or as otherwise allowed by law, firearms such as guns, muzzles loaders, rifles, shotguns, hand guns, pistols, and automatic guns shall:

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

(b) stored unloaded and separate from ammunition.

(7) Weapons such as paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace shall be inaccessible to children.

(8) Alcohol, illegal substances, and sexually explicit material shall be inaccessible, and shall not be used on the premises, during offsite activities, or in program vehicles any time a child is in care.

(9) An outdoor source of drinking water, such as individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain shall be available to each child whenever the outside temperature is 75 degrees or higher.

(10) Areas accessible to children shall be free of heavy or unstable objects that children could pull down on themselves, such as furniture, unsecured televisions, and standing ladders.

(11) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.

(12) Highchairs shall have T-shaped safety straps or devices that are used whenever a child is in the chair.

(13) Infant walkers with wheels shall be inaccessible to children.

(14) In compliance with the Utah Indoor Clean Air Act, tobacco, e-cigarettes, e-juice, e-liquids, and similar products shall be inaccessible and not used:

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

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

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

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

#### **R430-50-14. Emergency Preparedness and Response.**

(1) The provider shall post the home's street address and emergency numbers, including ambulance, fire, police, and poison control, near a telephone in the home or in an area clearly visible to anyone needing the information.

(2) The provider shall conduct fire evacuation drills at least once every 6 months. Drills shall include a complete exit of all children, staff, and volunteers from the home.

(3) The provider shall conduct drills for disasters other than fires at least once every 12 months.

(4) The provider shall vary the days and times on which fire and other disaster drills are held.

(5) In case of an emergency or disaster, the provider and all employees shall follow procedures as outlined in the facility's health and safety plan.

(6) If the provider must leave the premises due to an emergency, the provider may use an emergency substitute who was not named in the facility's health and safety plan.

(7) The emergency substitute:

(a) shall be at least 18 years old;

(b) is not required to have a CCL background screening; and

(c) is not required to meet the training, first aid, and CPR requirements of this rule.

(8) Before the provider may leave the children in the care of the emergency substitute, the provider shall first obtain a signed, written statement from the individual that they:

(a) have not been convicted of a felony or misdemeanor;

(b) do not have a substantiated background finding; and

(c) are not being investigated for abuse or neglect by any federal, state, or local government agency.

(9) The emergency substitute's written background statement shall be submitted to the Department for review within 5 working days after the occurrence.

(10) During the term of the emergency, the emergency substitute may be counted in the caregiver-to-child ratio.

(11) The provider shall make reasonable efforts to minimize the time that the emergency substitute has unsupervised contact with the children in care, and the amount of time shall not be more than 24 hours per emergency incident.

(12) The provider shall give parents a written report of every serious incident, accident, or injury involving their child:

(a) The caregivers involved, the provider, and the person picking up the child shall sign the report on the day of occurrence.

(b) If school-age children sign themselves out of the facility, a copy of the report shall be sent to the parent on the day following the occurrence.

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

(14) 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:

(a) emergency personnel shall be called immediately;

(b) after emergency personnel are called, then the parent shall be contacted;

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

(15) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall:

(a) submit a completed accident report form to the Department within the next business day of the incident; or

(b) contact the Department within the next business day, and submit a completed accident report form within 5 business days of the incident.

#### **R430-50-15. Health and Infection Control.**

(1) The building, furnishings, equipment, and outdoor area shall be kept clean and sanitary including:

(a) ceilings, walls, and flooring shall be clean and free of spills, dirt, and grime;

(b) areas and equipment used for the storage, preparation, and service of food shall be clean and sanitary;

(c) surfaces used by children shall be free of rotting food or a build-up of food;

(d) the building and grounds shall be free of a build-up of litter, trash, and garbage; and

(e) the facility shall be free of animal feces.

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

(3) All toys and materials including those used by infants and toddlers shall be cleaned:

- (a) at least weekly or more often if needed.
- (b) after being put in a child's mouth and before another child plays with the toy, and
- (c) after being contaminated by a body fluid.
- (4) Fabric toys and items such as stuffed animals, cloth dolls, pillows, and dress-up clothes shall be machine washable and washed weekly, and as needed.
- (5) Highchair trays shall be cleaned and sanitized before each use.
- (6) Water play tables or tubs shall be cleaned and sanitized daily, if used by the children.
- (7) Bathroom surfaces including toilets, sinks, faucets, and counters shall be cleaned and sanitized each day.
- (8) Potty chairs shall be cleaned and sanitized after each use.
- (9) Toilet paper shall be accessible to children and kept in a dispenser.
- (10) Only single-use paper towels or individually labeled cloth towels shall be used to dry a child's hands.
- (11) If cloth towels are used, they shall not be shared by children, caregivers, or volunteers.
- (12) Staff and volunteers shall wash their hands thoroughly with soap and running water at required times including:
  - (a) before handling or preparing food or bottles,
  - (b) before and after eating meals and snacks or feeding a child,
  - (c) after using the toilet or helping a child use the toilet,
  - (d) after contact with a body fluid,
  - (e) when coming in from outdoors, and
  - (f) after cleaning up or taking out garbage.
- (13) Caregivers shall teach children how to wash their hands thoroughly and shall oversee handwashing whenever possible.
- (14) The provider shall ensure that children wash their hands thoroughly with soap and running water at required times including:
  - (a) before and after eating meals and snacks,
  - (b) after using the toilet,
  - (c) after contact with a body fluid,
  - (d) before using a water play table or tub, and
  - (e) when coming in from outdoors.
- (15) Personal hygiene items, such as toothbrushes, combs, and hair accessories, shall not be shared and shall be stored so they do not touch each other, or they shall be sanitized between each use.
- (16) A child's clothing shall be promptly changed if the child has a toileting accident.
- (17) Staff shall take precautions when cleaning floors, furniture, and other surfaces contaminated by blood, urine, feces, and vomit. Except for diaper changes and toileting accidents, staff shall:
  - (a) wear waterproof gloves;
  - (b) clean the surface using a detergent solution;
  - (c) rinse the surface with clean water;
  - (d) sanitize the surface;
  - (e) throw away in a leakproof plastic bag the disposable materials, such as paper towels, that were used to clean up the body fluid;

(f) wash and sanitize any nondisposable materials used to clean up the body fluid, such as cleaning cloths, mops, or reusable rubber gloves, before reusing them; and

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

(18) A child who becomes ill with an infectious disease while in care shall be made comfortable in a safe, supervised area that is separated from the other children.

(19) If a child becomes ill while in care, the provider shall contact the child's parent as soon as the illness is observed or suspected.

(20) The parents of every child in care shall be informed when any child, employee, or person in the home has an infectious disease or parasite. Parents shall be notified on the day the illness is discovered.

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

#### **R430-50-16. Food and Nutrition.**

(1) The provider shall ensure that each child age 2 years and older is offered a meal or snack at least once every 3 hours.

(2) When food for children's meals and/or snacks is supplied by the provider:

(a) the meal service shall meet local health department food service regulations;

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

(c) the provider shall use the CACFP menus, the standard Department-approved menus, 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;

(d) the current week's menu shall be posted for review by parents and the Department; and

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

(3) The person who serves food to children shall:

(a) be aware of the children in their assigned group who have food allergies or sensitivities, and

(b) ensure that the children are not served the food or drink they are allergic or sensitive to.

(4) Children's food shall be served on dishes, napkins, or sanitary highchair trays, except an individual finger food, such as a cracker, that may be placed directly in a child's hand. Food shall not be placed on a bare table.

(5) Food and drink brought in by parents for their child's use shall be:

(a) labeled with the child's name or individually identified,

(b) refrigerated if needed, and

(c) consumed only by that child.

#### **R430-50-17. Medications.**

(1) All medications shall be inaccessible to children.

(2) All liquid refrigerated medications shall be stored in a separate leakproof container.

(3) All over-the-counter and prescription medications supplied by parents 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.

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

(5) The medication permission form shall include:

- (a) the name of the child,
- (b) the name of the medication,
- (c) written instructions for administration, and
- (d) the parent signature and the date signed.

(6) The instructions for administering the medication shall include:

- (a) the dosage,
- (b) how the medication will be given,
- (c) the times and dates to administer the medication, and
- (d) the disease or condition being treated.

(7) If the provider supplies an over-the-counter medication for children's use, the medication shall not be administered to any child without previous parental consent for each instance it is given. The consent shall be:

- (a) prior written consent; or
- (b) verbal consent if the date and time of the consent is documented, and is signed by the parent upon picking up their child.

(8) The caregiver administering the medication shall:

- (a) wash their hands,
- (b) check the medication label to confirm the child's name if the parent supplied the medication,
- (c) check the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer, and
- (d) administer the medication.

(9) Immediately after administering a medication, the caregiver giving the medication shall record the following information:

- (a) the date, time, and dosage of the medication given;
- (b) any errors in administration or adverse reactions; and
- (c) their signature or initials.

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

(11) 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 before the time the medication needs to be given.

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

#### **R430-50-18. Activities.**

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

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

(3) Toys, materials, and equipment needed to support children's healthy development shall be available to the children.

(4) Except for occasional special events, children's screen time on media such as television, cell phones, tablets, and computers shall:

- (a) not be allowed for children 0 to 17 months old;
- (b) be limited for children 18 months to 4 years old to 1 hour per day, or 5 hours per week with a maximum screen time of 2 hours per activity; and
- (c) be part of a media plan that addresses the needs of children 5 to 12 years old.

(5) If swimming activities are offered or if wading pools are used:

- (a) the provider shall obtain parental permission before each child in care uses the pool;
- (b) caregivers shall stay at the pool supervising whenever a child is in the pool or has access to the pool, and whenever a wading pool has water in it;
- (c) diapered children shall wear swim diapers whenever they are in the pool;
- (d) wading pools shall be emptied and sanitized after use by each group of children;
- (e) if the pool is over 4 feet deep, there shall be a lifeguard on duty who is certified by the Red Cross or other approved certification program any time children have access to the pool; and
- (f) lifeguards and pool personnel shall not count toward the caregiver-to-child ratio.

(6) If offsite activities are offered:

- (a) the provider shall obtain written parental consent before each activity;
- (b) the required caregiver-to-child ratio and supervision shall be maintained during the entire activity;
- (c) a first aid kit shall be available;
- (d) children's names shall not be used on nametags, t-shirts, or in other visible ways; and
- (e) there shall be a way for caregivers and children to wash their hands with soap and water, or if there is no source of running water, caregivers and children shall clean their hands with wet wipes and hand sanitizer.

(7) On every offsite activity, caregivers shall take the written emergency information and releases for each child in the group.

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(22) On every offsite activity, caregivers shall take the written emergency information and releases for each child in the group.

(23) On every offsite activity, caregivers shall take the written emergency information and releases for each child in the group.

(24) On every offsite activity, caregivers shall take the written emergency information and releases for each child in the group.

(25) On every offsite activity, caregivers shall take the written emergency information and releases for each child in the group.

(6) There shall be no heavy metal swings, such as animal-shaped swings, accessible to children.

(7) Cushioning for stationary play equipment shall cover the entire surface of each required use zone.

(8) If ASTM cushioning is used, the provider shall keep on-site for review by the Department the documentation from the manufacturer that the material meets ASTM Specification F1292.

(9) Stationary play equipment with a designated play surface that measures 6 inches or higher shall not be placed on a hard surface such as concrete, asphalt, dirt, or the bare floor, but may be placed on grass or other cushioning.

(10) Except for trampolines, stationary play equipment that is 18 inches or higher shall:

(a) have a 3-foot use zone that is free of hard objects or surfaces and that extends from the outermost edge of the equipment; and

(b) be stable and securely anchored.

(11) A trampoline shall be considered accessible to children in care unless the trampoline:

(a) is enclosed behind at least a 3-foot high, locked fence or barrier;

(b) has no jumping mat;

(c) is placed upside down, or

(d) is enclosed within at least a 6-foot-high safety net that is locked.

(12) An accessible trampoline without a safety net enclosure shall be placed at least 6 feet away from any structure or object onto which a child could fall, including play equipment, trees, and fences.

(13) An accessible trampoline with a safety net enclosure shall be placed at least 3 feet away from any structure or object onto which a child could fall, including play equipment, trees, and fences if the net:

(a) is properly installed and used as specified by the manufacturer,

(b) is in good repair, and

(c) is at least 6 feet tall.

(14) An accessible trampoline shall be placed over grass, 6-inch-deep cushioning, or ASTM-approved cushioning. Cushioning shall extend at least 6 feet from the outermost edge of the trampoline frame, or at least 3 feet from the outermost edge of the trampoline frame if a net is used as specified in R430-50-19(13).

(15) There shall be no ladders or other objects within the use zone of an accessible trampoline that a child could use to climb on the trampoline.

(16) An accessible trampoline shall have shock-absorbing pads that completely cover its springs, hooks, and frame.

(17) Before a child in care uses a trampoline, the child's parent shall sign a Department-approved permission form that the provider keeps on-site for review by the Department.

(18) When a trampoline is being used by a child in care:

(a) a caregiver shall be at the trampoline supervising,

(b) only one person at a time shall use a trampoline,

(c) no child in care shall be allowed to do somersaults or flips on the trampoline, and

(d) no one shall be allowed to play under the trampoline when it is in use.

#### **R430-50-20. Transportation.**

If transportation services are offered:

(1) For each child being transported, the provider shall have a transportation permission form;

(a) signed by the parent, and

(b) on-site for review by the Department.

(2) Each vehicle used for transporting children shall:

(a) be enclosed with a roof or top,

(b) be equipped with safety restraints,

(c) have a current vehicle registration,

(d) be maintained in a safe and clean condition,

(e) contain a first aid kit, and

(f) contain a body fluid clean up kit.

(3) The safety restraints in each vehicle that transports children shall:

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

(b) be properly installed; and

(c) be in safe condition and working order.

(4) The driver of each vehicle who is transporting children shall:

(a) be at least 18 years old;

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

(c) have with them the written emergency contact information for each child being transported;

(d) ensure that each child being transported is in an individual safety restraint that is used according to Utah law;

(e) ensure that the inside vehicle temperature is between 60-85 degrees Fahrenheit;

(f) never leave a child in the vehicle unattended by an adult;

(g) ensure that children stay seated while the vehicle is moving;

(h) never leave the keys in the ignition when not in the driver's seat; and

(i) ensure that the vehicle is locked during transport.

(5) When the provider walks or uses public transportation to transport children to or from the facility, the provider shall ensure that:

(a) each child being transported has a completed transportation permission form signed by their parent,

(b) a caregiver goes with the children and actively supervises them,

(c) the caregiver-to-child ratio is maintained, and

(d) caregivers take each child's written emergency contact information and releases with them.

#### **R430-50-21. Animals.**

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

(2) There shall be no animal on the premises that:

(a) is naturally aggressive;

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

(c) has a history of biting even one person.

(3) Animals at the facility shall be clean and free of obvious disease or health problems that could adversely affect children.

(4) There shall be no animal or animal equipment in food preparation or eating areas during food preparation or eating times.

(5) Children younger than 5 years of age shall not assist with the cleaning of animals or animal cages, pens, or equipment.

(6) If school-age children help in the cleaning of animals or animal equipment, the children shall wash their hands immediately after cleaning the animal or equipment.

(7) Children and staff shall wash their hands immediately after playing with or touching animals, including reptiles and amphibians.

(8) Dogs, cats, and ferrets that are housed at the facility shall have current rabies vaccinations.

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

#### **R430-50-22. Rest and Sleep.**

(1) The provider shall offer children in care a daily opportunity for rest or sleep in an environment with subdued lighting, a low noise level, and freedom from distractions.

(2) Each crib used by children shall:

(a) have a tight-fitting mattress;

(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, or at least 12 inches from the top of the mattress to the top of the crib rail if the child using the crib cannot sit up without help;

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

(e) meet CPSC standards.

(3) Sleeping equipment may not block exits.

(4) Sleeping equipment and bedding items that are clearly assigned to and used by an individual child shall be cleaned and sanitized as needed and at least weekly.

(5) Sleeping equipment and bedding items that are not clearly assigned to and used by an individual child shall be cleaned and sanitized before each use.

#### **R430-50-23. Diapering.**

If the provider accepts children who wear diapers:

(1) Caregivers shall ensure that each child's diaper is:

(a) checked at least once every 2 hours,

(b) promptly changed when wet or soiled, and

(c) checked as soon as a sleeping child awakens.

(2) The diapering area shall not be located in a food preparation or eating area.

(3) Children shall not be diapered directly on the floor, or on any surface used for another purpose.

(4) The diapering surface shall be smooth, waterproof, and in good repair.

(5) Caregivers shall clean and sanitize the diapering surface after each diaper change, or use a disposable, waterproof diapering surface that is thrown away after each diaper change.

(6) Caregivers shall wash their hands after each diaper change.

(7) Caregivers shall place wet and soiled disposable diapers:

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

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

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

(8) Indoor containers where wet and soiled diapers are placed shall be cleaned and sanitized each day.

(9) If cloth diapers are used:

(a) they shall not be rinsed at the facility; and

(b) they shall be placed directly into a leakproof container that is inaccessible to any child and labeled with the child's name, or placed in a leakproof diapering service container.

#### **R430-50-24. Infant and Toddler Care.**

If the provider cares for infants or toddlers:

(1) Each awake infant and toddler shall receive positive physical and verbal interaction with a caregiver at least once every 20 minutes.

(2) To stimulate their healthy development, the provider shall ensure that infants receive daily interactions with adults; including on-the-ground interaction and closely supervised time spent in the prone position for infants younger than 6 months of age.

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

(4) For their healthy development, safe toys shall be available for infants and toddlers. There shall be enough toys accessible to each infant and toddler in the group to engage in play.

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

(6) An awake infant or toddler shall not be confined for more than 30 minutes in any piece of equipment, such as a swing, high chair, crib, playpen, or other similar piece of equipment.

(7) 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.

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

(9) Each infant and toddler shall be allowed to eat and sleep on their own schedule.

(10) Baby food, formula, or breast milk that is brought from home for an individual child's use shall be:

(a) labeled with the child's name;

(b) kept refrigerated if needed; and

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

(11) If an infant is unable to sit upright and hold their own bottle, a caregiver shall hold the infant during bottle feeding. Bottles shall not be propped.

(12) The caregiver shall swirl and test warm bottles for temperature before feeding to children.

(13) Formula and milk, including breast milk, shall be discarded after feeding or within 2 hours of starting a feeding.

(14) Caregivers shall cut solid foods for infants into pieces no larger than 1/4 inch in diameter, and shall cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.



(15) Infants shall sleep in equipment designed for sleep such as a crib, bassinet, porta-crib or play pen. An infant shall not be placed to sleep on a mat, cot, pillow, bouncer, swing, car seat, or other similar piece of equipment unless the provider has written permission from the infant's parent.

(16) Infants shall be placed on their backs for sleeping unless there is documentation from a health care provider requiring a different sleep position.

**KEY: child care facilities, residential certification**

**Date of Enactment or Last Substantive Amendment:** ~~[March 30, 2016]~~**2017**

**Notice of Continuation:** May 29, 2013

**Authorizing, and Implemented or Interpreted Law:** 26-39

**Health, Family Health and  
Preparedness, Child Care Licensing  
R430-90  
Licensed Family Child Care**

**NOTICE OF PROPOSED RULE  
(Amendment)**

DAR FILE NO.: 42023  
FILED: 08/14/2017

**RULE ANALYSIS**

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The child care community, the Child Care Residential Advisory Committee, and the Child Care Licensing Program supported the need for a revision of this rule. This rule was written in a very complex format and had many parts that were no longer applicable. Additionally, there were different sets of rules that applied to this provider type and also needed to be rewritten and combined in one single set of rules for clarity and to make it simpler to understand and follow.

SUMMARY OF THE RULE OR CHANGE: This rule was rewritten using simpler language and all rules that were not applicable were deleted. The rule sections were reorganized and renamed, and Rule R430-6 (the background screening rule) and Rule R430-1 (the administrative rule) were also rewritten and combined with this rule to have all requirements in one place.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 39

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: No state agencies operate child care homes. Therefore, Child Care Licensing does not anticipate any cost or savings as a result of this change.
- ◆ LOCAL GOVERNMENTS: No local governments operate child care homes. Therefore, Child Care Licensing does not anticipate any cost or savings as a result of this change.

◆ SMALL BUSINESSES: All child care homes are small businesses. Since the proposed changes do not add any requirements, Child Care Licensing does not anticipate any costs or savings to child care programs operated by small business.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: Since the proposed changes do not add any requirements, Child Care Licensing does not anticipate any 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, Child Care Licensing does not anticipate any compliance costs for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There is not fiscal impact for any of the parties affected by these proposed rule changes because these rules were only rewritten and reorganized in simpler language and no additional requirements were included.

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

HEALTH  
FAMILY HEALTH AND PREPAREDNESS,  
CHILD CARE LICENSING  
3760 S HIGHLAND DR  
SALT LAKE CITY, UT 84106  
or at the Office 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 or mail at PO Box 142003, Salt Lake City, UT 84414-2003

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/02/2017

THIS RULE MAY BECOME EFFECTIVE ON: 10/10/2017

AUTHORIZED BY: Joseph Miner, MD, Executive Director

**R430. Health, Family Health and Preparedness, Child Care Licensing.**

**R430-90. Licensed Family Child Care.**

**[R430-90-1. Legal Authority and Purpose.**

~~\_\_\_\_\_ This rule is promulgated pursuant to Title 26, Chapter 39. This rule establishes standards for the operation and maintenance of licensed family child care providers who care for one to 16 children in their home. It establishes minimum requirements for the health and safety of children in the care of licensed family providers.~~

**R430-90-2. Definitions.**

~~\_\_\_\_\_ (1) "Body fluid" means blood, urine, feces, vomit, mucus, or saliva.~~

(2) "Caregiver" means an individual who provides direct care to children.

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

(4) "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.

(5) "Health care provider" means a licensed professional with prescriptive authority, such as a physician, nurse practitioner, or physician's assistant.

(6) "Inaccessible to children" means:

(a) locked, such as in a locked room, cupboard or drawer;

(b) secured with a child safety device, such as a child safety cupboard lock or doorknob device;

(c) behind a properly secured child safety gate;

(d) located in a cupboard or on a shelf more than 36 inches above the floor; or

(e) not in any location in a bathroom where a child could reach, including by climbing on a toilet, bathtub, or counter.

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

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

(9) "Licensee" means the person holding a Department of Health child care license.

(10) "Over-the-counter medication" means medication that can be purchased without a written prescription. This includes herbal remedies and vitamin and mineral supplements.

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

(12) "Physical abuse" means causing non-accidental physical harm to a child.

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

(14) "Provider" means the licensee.

(15) "Related children" means children for whom a provider is the parent, legal guardian, step parent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.

(16) "Sanitize" means to reduce the number of germs on a surface to such a level that disease transmission by that surface is unlikely.

(17) "School age" means children ages five through twelve.

(18) "Sexual abuse" means abuse as provided in Utah Code, Section 76-5-404.1.

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

(20) "Sleeping equipment" means a cot, mat, crib, bassinet, porta-crib, play pen, or bed.

(21) "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 a child uses 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.

(22) "Strangulation hazard" means something on a component of playground equipment on which a child's clothes or something around a child's neck could become caught. For example, bolt ends that extend more than two threads beyond the face of the nut, hardware configurations that form a hook or leave a gap or space between components, and open "S" type hooks.

(23) "Substitute" means a person who assumes either the licensee's or a caregiver's duties under this rule when the licensee or caregiver is not present. This includes emergency substitutes.

(24) "Supervision" means the function of observing, overseeing, and guiding a child or group of children.

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

(26) "Unrelated children" means children who are not related children.

(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 direct 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.

#### **R430-90-3. License Required.**

(1) A person must either be licensed under this rule or certified under R430-50, if he or she:

(a) provides care in lieu of care ordinarily provided by a parent;

(b) provides care for five or more unrelated children;

(c) provides care for four or more hours per day;

(d) has a regularly scheduled, ongoing enrollment; and

(e) provides care for direct or indirect compensation.

(2) The Department does not license, nor is a license required for:

(a) a person who cares for related children only; or

(b) a person who provides care on a sporadic basis only.

#### **R430-90-4. Indoor Environment.**

(1) The licensee shall ensure that any building or playground structure on the premises 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 hazard.

(2) There shall be a working toilet and a working handwashing sink accessible to each non-diapered child in care.

(3) Each school age child shall have privacy when using the bathroom.

(4) The home shall be ventilated by mechanical ventilation or by windows that open and have screens.

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

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

(7) There shall be at least 35 square feet of indoor play space for each child, including providers' related children who are ages four through twelve.

~~\_\_\_\_\_ (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 children's materials.~~
- ~~\_\_\_\_\_ (9) Bathrooms, closets, hallways, and entryways are not included when calculating indoor space for children's use.~~

**R430-90-5. Cleaning and Maintenance.**

- ~~\_\_\_\_\_ (1) The licensee shall ensure that a clean and sanitary environment is maintained.~~
- ~~\_\_\_\_\_ (2) The licensee shall take safe and effective measures to prevent and eliminate the presence of insects, rodents, and other vermin.~~
- ~~\_\_\_\_\_ (3) The licensee shall maintain ceilings, walls, floor coverings, draperies, blinds, furniture, fixtures, and equipment in good repair to prevent injury to children.~~
- ~~\_\_\_\_\_ (4) The licensee shall ensure that entrances, exits, steps and outside walkways are maintained in a safe condition, and free of ice, snow, and other hazards.~~

**R430-90-6. 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 space at one time.~~
- ~~\_\_\_\_\_ (3) The outdoor play area shall be enclosed within a 4 foot high fence or wall, or within a solid natural barrier that is at least 4 feet high if:
 
  - ~~\_\_\_\_\_ (a) the licensee's home is located on a street with a speed limit higher than 25 miles per hour, or within half a mile of a street with a speed limit higher than 25 miles per hour; or~~
  - ~~\_\_\_\_\_ (b) the licensee's home is located on a street with more than two lanes of traffic, or within half a mile of a street with more than two lanes of traffic.~~~~
- ~~\_\_\_\_\_ (4) If any of the following hazards exist, they must be located behind a 4 foot high fence, wall, or solid barrier that separates the hazard from the children's outdoor play area:
 
  - ~~\_\_\_\_\_ (a) livestock on the licensee's property or within 50 yards of the licensee's property line;~~
  - ~~\_\_\_\_\_ (b) a water hazard, such as a swimming pool, pond, ditch, lake, reservoir, river, stream, creek, or animal watering trough, on the licensee's property or within 100 yards of the licensee's property line;~~
  - ~~\_\_\_\_\_ (c) dangerous machinery, such as farm equipment, on the licensee's property or within 50 yards of the licensee's property line;~~
  - ~~\_\_\_\_\_ (d) a drop-off of more than five feet on the licensee's property or within 50 yards of the licensee's property line; or~~
  - ~~\_\_\_\_\_ (e) barbed wire within 30 feet of the children's play area.~~~~
- ~~\_\_\_\_\_ (5) The outdoor play area shall be free of poisonous plants, harmful objects, toxic or hazardous substances, and standing water.~~
- ~~\_\_\_\_\_ (6) When in use by a child in care, the outdoor play area shall be free of animal excrement.~~
- ~~\_\_\_\_\_ (7) If a fence or barrier is required in Subsections (3) or (4) above, or Subsections 12(10)(e)(i) or 12(11)(b) below, there shall be no gap greater than five inches in the fence or barrier, nor shall any gap between the bottom of the fence or barrier and the ground be greater than five inches.~~

~~\_\_\_\_\_ (8) The outdoor play area shall have a shaded area to protect each child from excessive sun and heat whenever there are children in the outdoor play area.~~

- ~~\_\_\_\_\_ (9) An outdoor source of drinking water, such as individually labeled water bottles or a pitcher of water and individual cups that are taken outside, shall be available to each child whenever the outside temperature is 75 degrees or higher.~~
  - ~~\_\_\_\_\_ (10) Stationary play equipment used by any child in care shall not be located over hard surfaces such as cement, asphalt, or packed dirt, and shall have a 3' use zone that is free of hard surfaces. The licensee shall have until 1 September 2013 to meet the 3' use zone requirement.~~
  - ~~\_\_\_\_\_ (11) The licensee shall ensure that children using outdoor play equipment use it safely and in the manner intended by the manufacturer.~~
  - ~~\_\_\_\_\_ (12) There shall be no openings of a size greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter on or within the use zone of any piece of stationary play equipment where the feet of any child in care whose head is entrapped in the opening cannot touch the ground.~~
  - ~~\_\_\_\_\_ (13) There shall be no strangulation hazard on, within the use zone of, or adjacent to the use zone of any piece of stationary play equipment.~~
  - ~~\_\_\_\_\_ (14) 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.~~
  - ~~\_\_\_\_\_ (15) There shall be no tripping hazards, such as concrete footings, tree stumps, exposed tree roots, or rocks within the use zone of any piece of stationary play equipment.~~
  - ~~\_\_\_\_\_ (16) The licensee shall ensure that outdoor play areas and outdoor play equipment are maintained to protect each child's safety.~~
- R430-90-7. Personnel.**
- ~~\_\_\_\_\_ (1) The licensee and all substitutes and caregivers must:
 
    - ~~\_\_\_\_\_ (a) be at least 18 years of age; and~~
    - ~~\_\_\_\_\_ (b) have knowledge of and comply with all applicable laws and rules.~~~~
  - ~~\_\_\_\_\_ (2) All assistant caregivers shall:
 
    - ~~\_\_\_\_\_ (a) be at least 16 years of age;~~
    - ~~\_\_\_\_\_ (b) work under the immediate supervision of a provider who is at least 18 years of age; and~~
    - ~~\_\_\_\_\_ (c) have knowledge of and comply with all applicable laws and rules.~~~~
  - ~~\_\_\_\_\_ (3) Assistant caregivers may be included in provider to child ratios, but only if there is also another provider present in the home who is 18 years of age or older.~~
  - ~~\_\_\_\_\_ (4) Assistant caregivers shall meet the training requirements of this rule.~~
  - ~~\_\_\_\_\_ (5) The licensee may make arrangements for a substitute who is at least 18 years old and who is capable of providing care, supervising children, and handling emergencies in the absence of the licensee.~~
  - ~~\_\_\_\_\_ (6) Substitutes who care for children an average of 10 hours per week or more shall meet the training requirements of this rule.~~
  - ~~\_\_\_\_\_ (7) In an unforeseeable emergency, such as a medical emergency requiring immediate care at a hospital or at an urgent care center or a lost child, the licensee may assign an emergency substitute who has not had a criminal background screening to care for the~~

children. A licensee may use an emergency substitute for up to 24 hours for each emergency event.

(a) The emergency substitute shall be at least 18 years of age.

(b) The emergency substitute is not required to meet the training, first aid, and CPR requirements of this rule.

(c) The emergency substitute cannot be a person who has been convicted of a felony or misdemeanor or has been investigated for abuse or neglect by any federal, state, or local government agency. The emergency substitute must provide a signed, written declaration to the licensee that he or she is not disqualified under this subsection.

(d) During the term of the emergency, the emergency substitute may be counted as a provider for the purpose of maintaining the required provider to child ratios.

(e) The licensee shall make reasonable efforts to minimize the time that the emergency substitute has unsupervised contact with the children in care.

(8) Any new caregiver, and volunteers who count in the caregiver to child ratio, shall receive at least 2.5 hours of pre-service training prior to assuming caregiving duties. Pre-service training shall be documented in the individual's file and shall include the following topics:

(a) specific job responsibilities;

(b) the Department-approved licensee's written policies and procedures;

(c) the Department-approved licensee's emergency and disaster plan;

(d) the current child care licensing rules found in Sections R430-90-11 through 24;

(e) introduction and orientation to the children in care;

(f) a review of the information in the health assessment for each child in care;

(g) 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;

(h) recognizing the signs of homelessness and available assistance;

(i) preventing shaken baby syndrome and abusive head trauma, and coping with crying babies; and

(j) prevention of sudden infant death syndrome and use of safe sleeping practices.

(9) Substitutes who care for children an average of 10 hours per week or more, the licensee, and all caregivers shall complete a minimum of 20 hours of child care training each year, based on the license date. A minimum of 10 hours of the required annual training shall be face-to-face instruction.

(a) Documentation of annual training shall be kept in each individual'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) All caregivers and non-emergency substitutes 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 relicensure date.

(c) Annual training hours shall include the following topics at least once every two years:

(i) a review of all of the current child care licensing rules found in Sections R430-90-11 through 24;

(ii) a review of the Department-approved licensee's written policies and procedures and emergency and disaster plan, 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;

(v) recognizing the signs of homelessness and available assistance;

(vi) positive guidance;

(i) preventing shaken baby syndrome and abusive head trauma, and coping with crying babies; and

(ii) prevention of sudden infant death syndrome and use of safe sleeping practices.

#### **R430-90-8. Administration.**

(1) The licensee is responsible for all aspects of the operation and management of the child care 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 licensee 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 licensee shall take all reasonable measures to protect the safety of each child in care. The licensee shall not engage in activity or allow conduct that unreasonably endangers any child in care.

(5) Either the licensee or a substitute with authority to act on behalf of the licensee shall be present whenever there is a child in care.

(6) Each week, the licensee shall be present at the home at least 50% of the time that one or more children are in care.

(7) There shall be a working telephone in the home. The licensee shall inform the parents of each child in care and the Department of any changes to the licensee'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 licensee shall establish, and shall ensure that all caregivers follow, written policies and procedures for the health and safety of each child in care. The licensee shall submit to the Department these policies and procedures for approval on a form provided by Child Care Licensing.

(10) The licensee shall ensure that the written policies and procedures are available for review by parents and the Department during business hours.

(11) The licensee shall train and supervise all caregivers and substitutes to:

(a) ensure their compliance with this rule;

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

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

**R430-90-9. Records.**

~~(1) The licensee shall maintain on-site for review by the Department during any inspection the following general records:~~

~~(a) documentation of the previous 12 months of quarterly fire drills and annual disaster drills as specified in R430-90-10(9) and R430-90-10(11);~~

~~(b) current animal vaccination records as required in R430-90-22(2)(b);~~

~~(c) a six week record of child attendance as required in R430-90-13(3);~~

~~(d) a current local health department kitchen inspection;~~

~~(e) an initial local fire department clearance for all areas of the home being used for care;~~

~~(f) copy of the current background screening card issued by the Department for all providers, volunteers, and each person age 12 and older who resides in the licensee's home;~~

~~(2) The licensee shall maintain on-site for review by the Department during any inspection the following records for each enrolled child:~~

~~(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 a provider is unable to contact the parent;~~

~~(vi) child health information, as required in R430-90-14(7); and~~

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

~~(b) current immunization records or documentation of a legally valid exemption, as specified in R430-90-14(5) and (6);~~

~~(c) a completed transportation permission form, if transportation services are offered to any child in care;~~

~~(d) a six week record of medication permission forms, and a six week record of medications actually administered as specified in R430-90-17(4) and R430-90-17(6)(f), if medications are administered to any child in care; and~~

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

~~(3) The licensee shall maintain on-site for review by the Department during any inspection the following records for the licensee and each non-emergency substitute and caregiver:~~

~~(a) pre-service training documentation for all non-emergency substitutes and caregivers as required in R430-90-7(8);~~

~~(b) annual training documentation for the past two years, for the licensee and all non-emergency substitutes and caregivers, as required in R430-90-7(9)(a); and~~

~~(c) current first aid and CPR certification, as required in R430-90-10(2), R430-90-20(3)(d), and R430-90-21(2).~~

~~(4) The licensee shall maintain on-site for review by the Department during any inspection pre-service training documentation for each volunteer as required in R430-90-7(8).~~

~~(5) The licensee shall ensure that information in any child's file is not released without written parental permission.~~

**R430-90-10. Emergency Preparedness.**

~~(1) The licensee shall post the home's street address and emergency numbers, including ambulance, fire, police, and poison control, near the telephone.~~

~~(2) The licensee and all substitutes who care for children an average of 10 hours per week or more shall maintain 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 home, including at least antiseptic, band-aids, and tweezers.~~

~~(4) The licensee shall submit to the Department a written emergency preparedness and disaster response plan for approval on a form provided by Child Care Licensing.~~

~~(5) The licensee shall ensure that the emergency and disaster plan is followed in the event of an emergency.~~

~~(6) The licensee shall review the emergency and disaster plan annually, and update it as needed. The licensee 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 parents and the Department during business hours.~~

~~(8) The licensee shall conduct fire evacuation drills quarterly. Drills shall include complete exit of all children and staff from the home.~~

~~(9) A provider shall document all fire drills, including:~~

~~(a) the date and time of the drill;~~

~~(b) the number of children participating;~~

~~(c) the total time to complete the evacuation; and~~

~~(d) any problems encountered.~~

~~(10) The licensee shall conduct drills for disasters other than fires at least once every 12 months.~~

~~(11) A provider shall document all disaster drills, including:~~

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

~~(b) the date and time of the drill;~~

~~(c) the number of children participating;~~

~~(d) the total time to complete the evacuation; and~~

~~(e) any problems encountered.~~

~~(12) The licensee shall vary the days and times on which fire and other disaster drills are held.~~

**R430-90-11. Supervision and Ratios.**

~~(1) The licensee or a substitute shall be physically present on-site and provide care and direct supervision of each child at all times, both indoors and outdoors. Direct care and supervision of each child includes:~~

~~(a) awareness of and responsibility for each child in care, including being near enough to intervene if needed;~~

~~(b) ensuring that there is a provider present inside the home when a child in care is inside the home, and there is a provider present in the outdoor play area when a child in care is outdoors, except as allowed in subsection (2) below for school-age children; and~~

~~(c) monitoring of each sleeping infant in one of the following ways:~~

~~(i) by placing each infant for sleep in a location where the infant is within sight and hearing of a provider; or~~

~~(ii) by in person observation of each sleeping infant at least once every 15 minutes;~~

~~(2) A provider shall actively supervise each child during outdoor play to minimize the risk of injury to a child. A provider may allow only school age children to play outdoors while the provider is indoors, if:~~

- ~~(a) a provider can hear the children playing outdoors; and~~
- ~~(b) the children playing outdoors are in an area completely enclosed within a 4 foot high fence or wall, or a solid natural barrier that is at least 4 feet high.~~

~~(3) The licensee may permit a child to participate in supervised out of the home activities without the licensee if:~~

- ~~(a) the licensee has prior written permission from the child's parent for the child's participation; and~~
- ~~(b) the licensee has clearly assigned the responsibility for the child's whereabouts and supervision to a responsible adult who accepts responsibility for the care and supervision of the child throughout the period of the out of home activity.~~

~~(4) The maximum allowed capacity for a licensed family child care facility is 16 children, including providers' own children under age four.~~

~~(5) The licensee shall maintain a provider to child ratio of one provider for up to eight children in care, and two providers for nine to sixteen children in care.~~

~~(a) Children in care include the providers' own children under the age of four.~~

~~(b) Providers who are included in the provider to child ratio must meet all of the requirements of this rule.~~

~~(6) There shall be no more than four children under the age of two in care with two providers; and no more than two children under the age of two in care with one provider, except that if there are six or fewer children in care, there may be up to three children under the age of two in care.~~

~~(7) The total number of children in care may be further limited based on square footage, as found in Subsections R430-90-4(7) through (9).~~

~~(8) The licensee shall not exceed the maximum group sizes found in Table 1 and Table 2.~~

TABLE 1

MAXIMUM GROUP SIZE WITH 1 PROVIDER

# of Providers' Related Children	Maximum Allowed Number of Children in Care, Including the Providers' Children Under Age 4	Total # of All Children Through Age 12 Present in the Home During Child Care Hours
0-4	8 children	12
5	7 children	12
6	6 children	12
7	5 children	12
8	4 children	12
9	3 children	12
10	2 children	12
11	1 child	12

TABLE 2

MAXIMUM GROUP SIZE WITH 2 PROVIDERS

# of Providers' Related Children	Maximum Allowed Number of Children in Care, Including the Providers' Children Under Age 4	Total # of All Children Through Age 12 Present in the Home During Child Care Hours
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Ages 4-12 Present in the Home During Child Care Hours	Care, Including the Providers' Children Under Age 4	Age 12 Present in the Home During Child Care Hours
-------------------------------------------------------	-----------------------------------------------------	----------------------------------------------------

0-8	16 children	24
9	15 children	24
10	14 children	24
11	13 children	24
12	12 children	24
13	11 children	24
14	10 children	24
15	9 children	24
16	8 children	24
17	7 children	24
18	6 children	24
19	5 children	24
20	4 children	24
21	3 children	24
22	2 children	24
23	1 child	24

**R430-90-12. Injury Prevention.**

~~(1) The licensee shall ensure that the home, outdoor play area, toys, and equipment are maintained and used in a safe manner to prevent injury to children.~~

~~(2) The licensee shall ensure that walkways are free of tripping hazards such as unsecured flooring or cords in walkways.~~

~~(3) Areas accessible to children shall be free of unstable heavy equipment, furniture, or other items that a child could pull down on himself or herself.~~

~~(4) The following items shall be inaccessible to each child in care:~~

- ~~(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, e-cigarettes, e-juice, e-liquids, open containers of 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, chains, and wires 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, empty 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 licensee shall ensure that all toxic or hazardous chemicals are stored 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) If a wading pool is used:~~

~~\_\_\_\_\_ (a) a provider must be at the pool supervising each child whenever there is water in the pool;~~

~~\_\_\_\_\_ (b) diapered children must wear swim diapers and rubber pants whenever they are in the pool;~~

~~\_\_\_\_\_ (c) the pool shall be emptied and sanitized after each use; and~~

~~\_\_\_\_\_ (d) before each child in care uses the pool, the licensee shall obtain parental permission for the child to use the pool.~~

~~\_\_\_\_\_ (10) If there is a swimming pool on the premises that is not emptied after each use:~~

~~\_\_\_\_\_ (a) a provider must be at the pool supervising each child whenever a child in care is using the pool or has access to the pool;~~

~~\_\_\_\_\_ (b) diapered children must wear swim diapers and rubber pants whenever they are in the pool;~~

~~\_\_\_\_\_ (c) the licensee shall ensure that children in care are protected from unintended access to the pool in one of the following ways:~~

~~\_\_\_\_\_ (i) the pool is enclosed within a fence or other solid barrier at least four feet high that is kept locked whenever the pool is not in use by any child in care; or~~

~~\_\_\_\_\_ (ii) the pool has a properly working safety cover that meets ASTM Standard F1346, and the safety cover is in place whenever the pool is not in use by any child in care;~~

~~\_\_\_\_\_ (d) the licensee shall maintain the pool in a safe manner;~~

~~\_\_\_\_\_ (e) the licensee shall meet all applicable state and local laws and ordinances related to the operation of a swimming pool;~~

~~\_\_\_\_\_ (f) if the pool is over six 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 any child in care has access to the pool; and~~

~~\_\_\_\_\_ (g) before each child in care uses the pool, the licensee shall obtain parental permission for the child to use the pool.~~

~~\_\_\_\_\_ (11) If there is a hot tub on the premises with water in it, the licensee shall ensure that children in care are protected from unintended access to the hot tub in one of the following ways:~~

~~\_\_\_\_\_ (a) it shall have a properly working locking cover that is kept locked whenever there is any child in care on the premises; or~~

~~\_\_\_\_\_ (b) it shall be surrounded by a four foot fence.~~

~~\_\_\_\_\_ (12) If there is a trampoline on the premises that is accessible to any child in care, the licensee shall ensure compliance with the following requirements:~~

~~\_\_\_\_\_ (a) A provider must be at the trampoline supervising its use whenever any child in care is on the trampoline.~~

~~\_\_\_\_\_ (b) Only one person at a time may use a trampoline.~~

~~\_\_\_\_\_ (c) No child in care shall be allowed to do somersaults or flips on the trampoline.~~

~~\_\_\_\_\_ (d) The trampoline must have shock absorbing pads that completely cover its springs, hooks, and frame.~~

~~\_\_\_\_\_ (e) The trampoline must be placed at least 6' away from any structure or object onto which a child could fall, including playground equipment, trees, and fences. If the trampoline is completely enclosed within properly installed netting that is in good repair and is at least 6' tall, and that is used as specified by the manufacturer, the trampoline~~

~~must be placed at least 3' away from any structure or object onto which a child could fall, including playground equipment, trees, and fences.~~

~~\_\_\_\_\_ (f) There shall be no ladders near the trampoline.~~

~~\_\_\_\_\_ (g) No child in care shall be allowed to play under the trampoline when it is in use.~~

~~\_\_\_\_\_ (h) A parent of each child in care who uses the trampoline shall sign a Department approved permission form before his or her child uses the trampoline.~~

~~\_\_\_\_\_ (i) The trampoline shall be placed over grass or six inches of protective cushioning, which shall extend six feet from the perimeter of the trampoline frame, or three feet from the perimeter of the trampoline frame if a net is used as specified above in subsection (e).~~

#### **R430-90-13. Parent Notification and Child Security:**

~~\_\_\_\_\_ (1) The licensee shall either post or, upon enrollment, give each parent a copy of the Department's child care guide.~~

~~\_\_\_\_\_ (2) At all times when their child is in care, parents shall have access to those areas of the licensee's home and outdoor area that are used for child care.~~

~~\_\_\_\_\_ (3) The licensee shall ensure that a daily attendance record is maintained each day there is a child in care, to document each child's attendance.~~

~~\_\_\_\_\_ (4) Only parents or persons with written authorization from the parent may pick up any child. In an emergency, a 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.~~

~~\_\_\_\_\_ (5) The licensee shall ensure that parents are given a written report of every serious incident, accident, or injury involving their child on the day of occurrence. A provider and the person picking up the child shall sign the report to acknowledge that he or she has received it.~~

~~\_\_\_\_\_ (6) The licensee shall ensure that parents are notified verbally of minor accidents and injuries on the day of occurrence.~~

~~\_\_\_\_\_ (7) In the case of a life threatening incident or injury to a child, or an incident or injury that poses a threat of the loss of vision, hearing, or a limb, a provider shall contact emergency personnel immediately, before contacting the parent. If the parent cannot be reached after emergency personnel have been contacted, a provider shall attempt to contact the child's emergency contact person.~~

~~\_\_\_\_\_ (8) If a child is injured and the injury appears serious but not life threatening, a provider shall contact the parent immediately, in addition to giving the parent a written report of the injury.~~

#### **R430-90-14. Child Health:**

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

~~\_\_\_\_\_ (2) All providers 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 alcohol, illegal substances, or sexually explicit material on the premises or in vehicles used to transport children is prohibited any time that a child is in care.~~

~~\_\_\_\_\_ (4) At any time when a child is in care, the provider shall ensure that tobacco is not used:~~

~~\_\_\_\_\_ (a) in the home, garage, or any other building used by a child in care;~~

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

~~\_\_\_\_\_ (c) within 25 feet of any entrance to the home, garage, or any other building occupied by a child in care; or~~

~~\_\_\_\_\_ (d) in any outdoor area where a child in care plays, or within 25 feet of any outdoor area where a child in care plays.~~

~~\_\_\_\_\_ (5) The licensee shall not enroll any child for care 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.~~

~~\_\_\_\_\_ (6) The licensee shall not provide ongoing care to a child without documentation of:~~

~~\_\_\_\_\_ (a) proof of current immunizations as required by Utah law; or~~

~~\_\_\_\_\_ (b) written documentation of an immunization exemption due to personal, medical or religious reasons.~~

~~\_\_\_\_\_ (7) The licensee shall not admit any child for care without the following written health information from the parent:~~

~~\_\_\_\_\_ (a) known allergies;~~

~~\_\_\_\_\_ (b) known 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 licensee.~~

~~\_\_\_\_\_ (8) If the parent of a child in care has informed the provider that his or her child has a food allergy or sensitivity, that child shall not be given the food or beverage they are allergic to.~~

~~\_\_\_\_\_ (9) The licensee shall ensure that each child's parent reviews, updates, and signs or initials the child's health information at least annually.~~

#### **R430-90-15. Child Nutrition.**

~~\_\_\_\_\_ (1) If food service is provided:~~

~~\_\_\_\_\_ (a) The licensee shall ensure that his or her meal service complies with local health department food service regulations.~~

~~\_\_\_\_\_ (b) Foods served by license holders 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, current menus provided by the CACFP, or menus approved by a registered dietitian. Dietitian approval shall be noted and dated on the menus, and shall be current within the past 5 years.~~

~~\_\_\_\_\_ (c) License holders not currently participating and in good standing with the CACFP shall keep a one week record of foods served at each meal or snack.~~

~~\_\_\_\_\_ (d) The current week's menu shall be available for parent review.~~

~~\_\_\_\_\_ (2) The licensee shall ensure that each child in care is offered a meal or a snack at least once every three hours.~~

~~\_\_\_\_\_ (3) Providers shall serve each child'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 child's hands. Providers shall not place food on a bare table.~~

~~\_\_\_\_\_ (4) The licensee shall ensure that food and drink brought in by parents for an individual child's use is labeled with the child's name or another unique identifier, and refrigerated if needed. Children in-~~

~~care shall not be served food or beverages that were brought in for another child.~~

#### **R430-90-16. Infection Control.**

~~\_\_\_\_\_ (1) All providers and volunteers shall wash their hands with soap and running water at the following times:~~

~~\_\_\_\_\_ (a) before handling or preparing food or bottles;~~

~~\_\_\_\_\_ (b) before and after eating meals and snacks or feeding a child;~~

~~\_\_\_\_\_ (c) after diapering each child;~~

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

~~\_\_\_\_\_ (e) after coming into contact with any body fluid;~~

~~\_\_\_\_\_ (f) after playing with or handling animals;~~

~~\_\_\_\_\_ (g) when coming in from outdoors; and~~

~~\_\_\_\_\_ (h) before administering medication.~~

~~\_\_\_\_\_ (2) The licensee shall ensure that each child washes his or her hands with soap and 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 any body fluid; and~~

~~\_\_\_\_\_ (d) when coming in from outdoors.~~

~~\_\_\_\_\_ (3) During outdoor play time, the requirements of Subsections (1) and (2) may be met by having each provider, volunteer, and child clean his or her hands with individual disposable wet wipes and hand sanitizer.~~

~~\_\_\_\_\_ (4) Only single-use paper towels or individually labeled cloth towels shall be used to dry a child's hands. If cloth towels are used, they shall not be shared by children, providers, or volunteers, and a provider shall wash the towels daily.~~

~~\_\_\_\_\_ (5) The licensee shall ensure that toilet paper is accessible to each child, and that it is kept in a dispenser.~~

~~\_\_\_\_\_ (6) The licensee shall ensure that children are taught 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 a provider on more than one child. Each child's items shall be stored so that they do not touch another child's items.~~

~~\_\_\_\_\_ (8) The licensee shall ensure that all washable toys and materials are cleaned and sanitized after each 5 days of use, or more often if needed.~~

~~\_\_\_\_\_ (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 licensee shall ensure that all stuffed animals, cloth dolls, dress-up clothes, and pillows or covers are washed after each 5 days of use, or more often if needed.~~

~~\_\_\_\_\_ (10) If a water play table or tub is used, the licensee shall ensure that the table or tub is washed and sanitized daily, and that each child washes his or her hands prior to engaging in the activity.~~

~~\_\_\_\_\_ (11) Persons with contagious TB shall not work with, assist with, or be present with any child in care.~~

~~\_\_\_\_\_ (12) A provider shall promptly change a child's clothing if the child has a toileting accident.~~

~~\_\_\_\_\_ (13) If a child's clothing is wet or soiled from any body fluid, the licensee shall ensure that:~~

~~\_\_\_\_\_ (a) the clothing is washed and dried; or~~



~~(b) the clothing is placed in a leakproof container, labeled with the child's name, and returned to the parent.~~

~~(14) If a child uses a potty chair, the licensee shall ensure that it is cleaned and sanitized after each use.~~

~~(15) Except for diaper changes, which are covered in Section R430-90-23, and children's clothing that is soiled from a toileting accident, which is covered in Subsection R430-90-16(13), the licensee shall ensure that the following precautions are taken when cleaning up blood, urine, feces, and vomit.~~

~~(a) The person cleaning up the substance shall wear waterproof gloves;~~

~~(b) the surface shall be cleaned using a detergent solution;~~

~~(c) the surface shall be rinsed with clean water;~~

~~(d) the surface shall be sanitized;~~

~~(e) if disposable materials such as paper towels or other absorbent materials are used to clean up the body fluid, they shall be disposed of in a leakproof plastic bag;~~

~~(f) if non-disposable materials, such as a cleaning cloth, mop, or re-usable rubber gloves are used to clean up the body fluid, they shall be washed and sanitized before reuse; and~~

~~(g) the person cleaning up the fluid shall wash his or her hands after cleaning up the body fluid.~~

~~(16) The licensee shall ensure that any child who is ill with an infectious disease is separated from any other children in care in a safe, supervised location.~~

~~(17) The licensee shall ensure that a parent of any child who becomes ill after arrival is contacted as soon as the illness is observed or suspected.~~

~~(18) The licensee shall ensure that the parents of every child in care are informed when any person in the home or child in care has an infectious disease or parasite. Parents shall be notified the day the infectious disease or parasite is discovered.~~

#### **R430-90-17. Medications.**

~~(1) Only a provider trained in the administration of medications as specified in this rule may administer medication to a child in care.~~

~~(2) All over-the-counter and prescription medications shall:~~

~~(a) be labeled with the child's name;~~

~~(b) be kept in the original or pharmacy container;~~

~~(c) have the original label; and,~~

~~(d) have child-safety caps.~~

~~(3) The licensee shall ensure that all non-refrigerated over-the-counter and prescription medication is inaccessible to children. The licensee shall ensure that all refrigerated over-the-counter and prescription medication is placed in a waterproof container to avoid contamination between food and medication.~~

~~(4) The licensee shall have a written medication permission form completed and signed by the parent prior to the administering of any over-the-counter or prescription medication brought in by a parent for his or her 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's signature and the date signed.~~

~~(5) If the licensee keeps over-the-counter medication that is not brought in by a parent for his or her 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) When administering medication, the person administering the medication shall:~~

~~(a) wash his or her hands;~~

~~(b) if the parent supplies the medication, check the medication label to confirm the child's name;~~

~~(c) if the parent supplies the medication, 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) if the licensee supplies the medication, check the product package to ensure that a child is not given a dosage larger than that recommended by the manufacturer;~~

~~(e) administer the medication; and~~

~~(f) 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.~~

~~(7) The licensee shall ensure that any adverse reaction to a medication or any error in administration is reported to the parent immediately upon recognizing the error or reaction, or after notifying emergency personnel if the reaction is life threatening.~~

#### **R430-90-18. Napping.**

~~(1) The licensee shall ensure that children in care are offered a daily opportunity for rest or sleep in an environment that provides a low noise level and freedom from distractions.~~

~~(2) If the licensee has a scheduled nap time for children, it shall not exceed two hours daily.~~

~~(3) If a child uses sleeping equipment, sleeping bags, a pillow, a pillow case, sheets, or blankets while in care, the licensee shall meet the following requirements:~~

~~(a) The licensee shall maintain sleeping equipment in good repair.~~

~~(b) If sleeping equipment, sleeping bags, pillow cases, sheets, or blankets are clearly assigned to and used by an individual child, a provider must clean and sanitize them as needed, but at least weekly.~~

~~(c) If sleeping equipment, sleeping bags, pillow cases, sheets, or blankets are not clearly assigned to and used by an individual child, a provider must clean and sanitize them prior to each use.~~

~~(4) If a child uses a pillow without a pillow case while in care, then the provider must clean and sanitize the pillow as required in Subsection (3). If a child uses a pillow with a pillow case while in care, then the provider must clean and sanitize the pillow case as required in Subsection (3).~~

~~(5) Sleeping equipment may not block exits at any time.~~

**R430-90-19. Child Discipline.**

~~(1) The licensee shall inform non-emergency substitutes, caregivers, parents, and children of the licensee's behavioral expectations for children.~~

~~(2) Providers and volunteers may discipline children using positive reinforcement and redirection, and by setting clear limits that promote a child's ability to become self-disciplined.~~

~~(3) A provider may use gentle, passive restraint with a child only when it is needed to stop the child from injuring himself or herself or others or from destroying property.~~

~~(4) Disciplinary 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 any child;~~

~~(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.~~

**R430-90-20. Activities.**

~~(1) The licensee shall develop a daily activity plan that offers activities to support each child's healthy physical, social-emotional, and cognitive language development. The plan shall include a daily opportunity for outdoor play, weather permitting.~~

~~(2) The licensee shall ensure that the toys and equipment needed to carry out the activity plan are accessible to children.~~

~~(3) If off-site activities are offered:~~

~~(a) the licensee shall obtain parental consent for off-site activities in advance;~~

~~(b) a provider who meets all of the caregiver requirements of this rule shall accompany the children and shall take a copy of each child's admission form as specified in Subsection R430-90-9(2)(a).~~

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

~~(d) at least one provider present 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. And~~

~~(e) a provider shall ensure that there is a way for each provider, volunteer, and child to wash his or her hands as specified in R430-90-16(1) and (2). If there is no source of running water, providers, volunteers, and children may clean their hands with individual disposable wet wipes and hand sanitizer.~~

~~(4) If off-site swimming activities are offered, providers shall remain with the children during the activity, and lifeguards and pool personnel shall not count toward the provider to child ratio.~~

**R430-90-21. Transportation.**

~~(1) Any vehicle used for transporting any child in care 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) be maintained in a safe condition and have a current vehicle registration and safety inspection;~~

~~(d) be maintained in a clean condition;~~

~~(e) maintain temperatures between 60-90 degrees Fahrenheit when in use; and~~

~~(f) contain first aid supplies, including at least antiseptic, band-aids, and tweezers.~~

~~(2) At least one adult in each vehicle transporting any child 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 adult transporting any child in care shall:~~

~~(a) have and carry with him or her a current valid Utah driver's license for the type of vehicle being driven whenever he or she is transporting any child in care;~~

~~(b) have with him or her a copy of each child's admission form as specified in Subsection R430-90-9(2)(a);~~

~~(c) ensure that each child in care being transported is wearing an appropriate individual safety restraint;~~

~~(d) ensure that each child is always attended by an adult while 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.~~

**R430-90-22. Animals.**

~~(1) The licensee shall inform parents of the types of animals permitted on the premises.~~

~~(2) The licensee shall ensure that all animals on the premises are accessible to any child in care:~~

~~(a) are clean and free of obvious disease or health problems that could adversely affect any child in care; and~~

~~(b) have current vaccinations for all vaccine preventable diseases that are transmissible to humans. The licensee shall have documentation of the vaccinations.~~

~~(3) The licensee shall ensure that there is no animal on the premises that has a history of dangerous, attacking, or aggressive behavior, or a history of biting even one person.~~

~~(4) The licensee shall ensure that no child in care assists with the cleaning of animals or animal cages, pens, or equipment.~~

~~(5) The licensee shall ensure that there is no animal or animal equipment in food preparation or eating areas during food preparation or eating times.~~

~~(6) The licensee shall ensure that no child in care handles reptiles or amphibians while in care.~~

**R430-90-23. Diapering.**

~~If children in care are diapered on the premises, the following applies:~~

~~(1) The diapering area shall not be located in a food preparation or eating area.~~

~~(2) Children shall not be diapered directly on the floor, or on any surface used for another purpose.~~

~~(3) The diapering surface shall be smooth, waterproof, and in good repair.~~

~~(4) A provider shall clean and sanitize the diapering surface after each diaper change, or use a disposable non-permeable diapering surface that is thrown away after each diaper change.~~

~~(5) The provider shall wash his or her hands after each diaper change.~~

~~(6) The provider shall place soiled disposable diapers in a container that has a disposable plastic lining and a tightly fitting lid, or place soiled diapers directly in an outdoor garbage container that has a tightly fitting lid or is inaccessible to children.~~

~~(7) A provider shall daily clean and sanitize indoor containers where soiled diapers are placed.~~

~~(8) If cloth diapers are used:~~

~~(a) they shall not be rinsed at the facility; and~~

~~(b) after a diaper change, the provider shall place the cloth diaper directly into a leakproof container that is inaccessible to any child and labeled with the child's name, or a leakproof diapering service container.~~

~~(9) The licensee shall ensure that each child's diaper is checked at least once every two hours, and that each child's diaper is changed promptly if it is wet or soiled. If a child is napping at the end of a two-hour period, the child's diaper must be checked when the child awakes.~~

#### **R430-90-24. Infant and Toddler Care.**

~~If the licensee accepts infants or toddlers for care, the following applies:~~

~~(1) If an infant is not able to sit upright and hold his or her own bottle, a provider shall hold the infant during bottle feeding. Bottles shall not be propped.~~

~~(2) A provider shall clean and sanitize high chair trays prior to each use.~~

~~(3) A provider shall cut solid foods for infants into pieces no larger than 1/4 inch in diameter. A provider shall cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.~~

~~(4) If there is more than one infant or toddler in care, baby food, formula, and breast milk for each child that is brought from home must be labeled with the child's name or another unique identifier.~~

~~(5) Baby food, formula, and breast milk that is brought from home for an individual child's use must be:~~

~~(a) kept refrigerated if needed; and~~

~~(b) 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.~~

~~(6) The licensee shall ensure that formula and milk, including breast milk, is discarded after each feeding, or within two hours of initiating a feeding.~~

~~(7) To prevent burns, a provider shall shake each heated bottle and test it for temperature before the bottle is fed to a child.~~

~~(8) If there is more than one infant or toddler in care, pacifiers and bottles shall be:~~

~~(a) labeled with each child's name or another unique identifier; or~~

~~(b) washed and sanitized after each individual use, before use by another child.~~

~~(9) The licensee shall ensure that only one infant or toddler occupies any one piece of equipment, such as a crib, playpen, stroller, or swing, at any time, unless the equipment has individual seats for more than one child.~~

~~(10) The licensee shall ensure that infants sleep in equipment designed for sleep, such as a crib, bassinet, porta-crib or play pen. The licensee shall ensure that infants are not placed to sleep on mats or cots, or in bouncers, swings, car seats, or other similar pieces of equipment, unless the licensee has written permission from the infant's parent.~~

~~(11) The licensee shall ensure that each crib used by a child in care:~~

~~(a) has a tight fitting mattress;~~

~~(b) has slats spaced no more than 2 3/8 inches apart;~~

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

~~(d) does not have strings, cords, ropes, or other entanglement hazards strung upon the crib rails or within reach of the child; and~~

~~(e) meet CPSC crib standards.~~

~~(12) The licensee shall ensure that infants are not placed on their stomachs for sleeping, unless there is documentation from a health care provider for treatment of a medical condition.~~

~~(13) The licensee shall ensure that each infant and toddler is allowed to follow his or her own pattern of sleeping and eating.~~

~~(14) Infant walkers with wheels are prohibited.~~

~~(15) The licensee shall ensure that infants and toddlers do not have access to objects made of styrofoam.~~

~~(16) The licensee shall ensure that a provider responds 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.~~

~~(17) The licensee shall ensure that awake infants and toddlers receive positive physical stimulation and positive verbal interaction with a provider at least once every 20 minutes.~~

~~(18) The licensee shall ensure that awake infants and toddlers are not 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.~~

~~(19) The licensee shall ensure that mobile infants and toddlers have freedom of movement in a safe area.~~

~~(20) To stimulate their healthy development, there shall be safe toys accessible to infants and toddlers. The licensee shall ensure that there are enough toys for each child in the group to be engaged in play with toys.~~

~~(21) The licensee shall ensure that all toys used by infants and toddlers are cleaned and sanitized:~~

~~(a) weekly;~~

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

~~(c) after being contaminated by any body fluid.]~~

#### **R430-90-1. Legal Authority and Purpose.**

~~(1) This rule is enacted and enforced in accordance with Utah Code, Title 26, Chapter 39.~~

~~(2) This rule establishes the foundational standards necessary to protect the health and safety of children in residential child care facilities and defines the general procedures and requirements to obtain and maintain a license to provide child care.~~

**R430-90-2. Definitions.**

(1) "Applicant" means a person or business who has applied for a new or a renewal of a license, certificate, or exemption from Child Care Licensing.

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

(3) "Background Finding" means information in a background screening that may result in a denial from Child Care Licensing.

(4) "Background Screening Denial" means that an individual has failed the background screening and is prohibited from being involved with a child care facility.

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

(6) "Body Fluid" means blood, urine, feces, vomit, mucus, and/or saliva.

(7) "Capacity" means the maximum number of children for whom care can be provided at any given time.

(8) "Caregiver-to-Child Ratio" means the number of caregivers responsible for a specific number of children.

(9) "CCL" means the Child Care Licensing Program in the Department of Health that is delegated with the responsibility to enforce the Utah Child Care Licensing Act.

(10) "Child Care" means continuous care and supervision of 5 or more qualifying children, that is:

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

(b) for less than 24 hours a day, and

(c) for direct or indirect compensation.

(11) "Child Care Hours" means the days and times during which the provider is open for business.

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

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

(14) "Conditional Status" means that the provider is at risk of losing their license because compliance with licensing rules has not been maintained.

(15) "Covered Individual" means any of the following individuals involved with a child care facility:

(a) an owner;

(b) an employee;

(c) a caregiver;

(d) a volunteer, except a parent of a child enrolled in the child care program;

(e) an individual age 12 years or older who resides in the facility; and

(f) anyone who has unsupervised contact with a child in care.

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

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

(18) "Designated Play Surface" means any accessible elevated surface for standing, walking, crawling, sitting or

climbing; or an accessible flat surface at least 2 by 2 inches in size and having an angle less than 30 degrees from horizontal.

(19) "Emotional Abuse" means behavior that could harm a child's emotional development, such as threatening, intimidating, humiliating, demeaning, criticizing, rejecting, using profane language, and/or using inappropriate physical restraint.

(20) "Entrapment Hazard" means an opening greater than 3-1/2 by 6-1/4 inches and less than 9 inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing a child's entrapment and strangulation.

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

(22) "Group" means the children who are supervised by one or more caregivers in an individual room or in an area within a room that is defined by furniture or other partition.

(23) "Group Size" means the number of children in a group.

(24) "Guest" means an individual who is not a covered individual and is on the premises with the provider's permission.

(25) "Health Care Provider" means a licensed health professional, such as a physician, dentist, nurse practitioner, or physician's assistant.

(26) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence as described in the McKinney-Vento Act, McKinney-Vento Homeless Assistance Act (Title IX, Part A of ESSA)

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

(a) locked, such as in a locked room, cupboard, or drawer;

(b) secured with a child safety device, such as a child safety cupboard lock or doorknob device;

(c) behind a properly secured child safety gate;

(d) located in a cupboard or on a shelf that is at least 36 inches above the floor; or

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

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

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

(30) "Involved with Child Care" means to do any of the following at or for a child care facility licensed by the Department:

(a) provide child care;

(b) volunteer at a child care facility;

(c) own, operate, direct, or be employed at a child care facility;

(d) reside at a facility where child care is provided; or

(e) be present at a facility while care is being provided, except for authorized guests or parents who are dropping off a child, picking up a child, or attending a scheduled event at the child care facility.

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

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

(33) "LIS Supported Finding" means background screening information from the Licensing Information System (LIS) database for child abuse and neglect, maintained by the Utah Department of Human Services.

(34) "McKinney-Vento Act" means a federal law that requires protections and services for children and youth who are homeless including those with disabilities. McKinney-Vento Homeless Assistance Act (Title IX, Part A of ESSA).

(35) "Over-the-Counter Medication" means medication that can be purchased without a written prescription including herbal remedies, vitamins, and mineral supplements.

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

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

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

(39) "Preschooler" means a child age 2 through 4 years old.

(40) "Provider" means the legally responsible person or business that holds a valid license from Child Care Licensing.

(41) "Qualifying Child" means:

(a) a child who is younger than 13 years old and is the child of a person other than the child care provider or caregiver.

(b) a child with a disability who is younger than 18 years old and is the child of a person other than the provider or caregiver, or

(c) a child who is younger than 4 years old and is the child of the provider or a caregiver.

(42) "Residential Child Care" means care that takes place in a child care provider's home.

(43) "Related Child" means a child for whom a provider is the parent, legal guardian, step-parent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.

(44) "Sanitize" means to use a chemical product to remove soil and bacteria from a surface or object.

(45) "School-Age Child" means a child age 5 through 12 years old.

(46) "Sexual Abuse" means abuse as defined in Utah Code, Title 76-5-404(1).

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

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

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

(a) a sandbox;

(b) a stationary circular tricycle;

(c) a sensory table; or

(d) a playhouse that sits on the ground or floor and has no attached equipment, such as a slide, swing, or climber.

(50) "Strangulation Hazard" means something on which a child's clothes or drawstrings could become caught, or something in which a child could become entangled such as:

(a) a protruding bolt end that extends more than 2 threads beyond the face of the nut;

(b) hardware that forms a hook or leaves a gap or space between components such as an open S-hook; or

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

(51) "Substitute" means a person who assumes a caregiver's duties when the caregiver is not present.

(52) "Toddler" means a child age 12 through 23 months.

(53) "Unrelated Child" means a child who is not a "related child" as defined in R430-90-2(43).

(54) "Unsupervised Contact" means being with, caring for, communicating with, or touching a child in the absence of a caregiver or other employee who is at least 18 years old and has passed a Child Care Licensing background screening.

(55) "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.

(56) "Volunteer" means an individual who receives no form of direct or indirect compensation for their service.

(57) "Working Days" means the days of the week the Department is open for business.

### **R430-90-3. License Required.**

(1) A person or persons shall be licensed under this rule if they provide child care:

(a) in the home where they reside;

(b) in the absence of the child's parent;

(c) for 5 to 16 unrelated children;

(d) for 4 or more hours per day;

(e) on a regularly scheduled, ongoing basis; and

(f) for direct or indirect compensation.

(2) The Department may not license, nor is a license required for:

(a) a person who cares for related children only; or

(b) a person who provides care on a sporadic basis only.

(3) According to Foster Care Services rule R501-12-4(8)(f), a provider may not be licensed to provide child care in a facility that is also licensed to offer foster or respite care services, or another licensed or certified human services program.

### **R430-90-4. License Application, Renewal, Changes, and Variances.**

(1) An applicant for a new child care license shall submit to the Department:

(a) an online application;

(b) a copy of a current local fire clearance or a statement from the local fire authority that a fire inspection is not required;

(c) a copy of a current local health department kitchen clearance for a facility providing food service or a statement from the local health department that a kitchen inspection is not required;

(d) a copy of a current local business license or a statement from the city that a business license is not required;

(e) a copy of a completed Department health and safety plan form;

(f) CCL background screenings for all covered individuals as required in R430-90-8;

(g) a current copy of the Department's new provider training certificate of attendance;

(h) all required fees, which are nonrefundable; and

(i) a signed Affidavit of Lawful Presence form provided by the Department.

(2) The applicant shall pass a Department's inspection of the facility before a new license or a renewal is issued.

(3) If the local fire authority states that a fire inspection is not required, a Department's CCL inspection for a new license or a renewal of a license shall include compliance with the following:

(a) address numbers and/or letters shall be readable from the street;

(b) address numbers and/or letters shall be at least 4 inches in height and 1/2 inch thick;

(c) exit doors shall operate properly and shall be well maintained;

(d) obstructions in exits, aisles, corridors, and stairways shall be removed;

(e) items stored under exit stairs shall be removed;

(f) there shall be unobstructed fire extinguishers that are of an X minimum rate and appropriate to the type of hazard, currently charged and serviced, and mounted not more than 5 feet above the floor;

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

(h) boiler, mechanical, and electrical panel rooms shall not be used for storage.

(4) If the local health department states that a kitchen inspection is not required, a Department's CCL inspection for a new license or a renewal of a license shall include compliance with the following:

(a) the refrigerator shall be clean, in good repair, and working at or below 41 degrees Fahrenheit;

(b) there shall be a working thermometer in the refrigerator;

(c) there shall be a working stem thermometer available to check cook and hot hold temperatures;

(d) cooks shall have a current food handler's permit available on-site for review by the Department;

(e) reusable food holders, utensils, and food preparation surfaces shall be washed, rinsed, and sanitized with an approved sanitizer before each use;

(f) chemicals shall be stored away from food and food service items;

(g) food shall be properly stored, kept to the proper temperature, and in good condition; and

(h) there shall be a working handwashing sink in the kitchen.

(5) If the applicant does not complete the application process within 6 months of first submitting any portion of the application, the Department may deny the application and to be licensed, the applicant shall reapply. This includes resubmitting all required documentation, repaying licensing fees, and passing another inspection of the facility.

(6) The Department may deny an application for a license if, within the 5 years preceding the application date, the applicant held a license or certificate that was:

(a) closed under an immediate closure;

(b) revoked;

(c) closed as a result of a settlement agreement resulting from a notice of intent to revoke, a notice of revocation, or a notice of immediate closure;

(d) voluntarily closed after an inspection of the facility found rule violations that would have resulted in a notice of intent to revoke or a notice of revocation had the provider not closed voluntarily; or

(e) voluntarily closed having unpaid fees or civil money penalties issued by the Department.

(7) Each child care license expires at midnight on the last day of the month shown on the license, unless the license was previously revoked by the Department, or voluntarily closed by the provider.

(8) Within 30 to 90 days before a current license expires, the provider shall submit for renewal:

(a) an online renewal request;

(b) applicable renewal fees;

(c) any previous unpaid fees;

(d) a copy of a current business license;

(e) a copy of a current fire inspection report, and

(f) a copy of a current kitchen inspection report.

(9) A provider who fails to renew their license by the expiration date may have an additional 30 days to complete the renewal process if they pay a late fee.

(10) The Department may not renew a license for a provider who is no longer caring for children.

(11) The provider shall submit a complete application for a new license at least 30 days before a change of the child care facility's location.

(12) The provider shall submit a complete application to amend an existing license at least 30 days before any of the following changes:

(a) an increase or decrease of licensed capacity, including any change to the amount of usable indoor or outdoor space where child care is provided;

(b) a change in the name of the program;

(c) a change in the regulation category of the program;

(d) a change in the name of the provider; or

(e) a transfer of business ownership to a spouse or to any other household member.

(13) The Department may amend a license after verifying that the applicant is in compliance with all applicable rules and required fees have been paid. The expiration date of the amended license remains the same as the previous license.

(14) A license is not assignable or transferable and shall only be amended by the Department.

(15) If an applicant or provider cannot comply with a rule but can meet the intent of the rule in another way, they may apply for a variance to that rule by submitting a request to the Department.

(16) The Department may:

(a) require additional information before acting on the variance request, and

(b) impose health and safety requirements as a condition of granting a variance.

(17) The provider shall comply with the existing rule until a variance is approved.

(18) If a variance is approved, the provider shall keep a copy of the written approval on-site for review by parents and the Department.

(19) The Department may grant variances for up to 12 months.

(20) The Department may revoke a variance if:

(a) the provider is not meeting the intent of the rule as stated in their approved variance;

(b) the provider fails to comply with the conditions of the variance; or

(c) a change in statute, rule, or case law affects the basis for the variance.

#### **R430-90-5. Rule Violations and Penalties.**

(1) The Department may place a program's child care license on a conditional status for the following causes:

- (a) chronic, ongoing noncompliance with rules;
  - (b) unpaid fees; or
  - (c) a serious rule violation that places children's health or safety in immediate jeopardy.
- (2) The Department shall establish the length of the conditional status and set the conditions that the child care provider shall satisfy to remove the conditional status.

(3) The Department may increase monitoring of the program that is on conditional status to verify compliance with rules.

(4) The Department may deny or revoke a license if the child care provider:

- (a) fails to meet the conditions of a license on conditional status;
- (b) violates the Child Care Licensing Act;
- (c) provides false or misleading information to the Department;
- (d) misrepresents information by intentionally altering a license or any other document issued by the Department;
- (e) refuses to allow authorized representatives of the Department access to the facility to ensure compliance with rules;
- (f) refuses to submit or make available to the Department any written documentation required to verify compliance with rules;
- (g) commits a serious rule violation that results in death or serious harm to a child, or that places a child at risk of death or serious harm; or
- (h) has committed an illegal act that would exclude a person from having a license.

(5) Within 10 working days of receipt of a revocation notice, the provider shall submit to the Department the names and mailing addresses of the parents of each enrolled child so the Department can notify the parents of the revocation.

(6) The Department may order the immediate closure of a facility if conditions create a clear and present danger to any child in care and may require immediate action to protect their health or safety.

(7) Upon receipt of an immediate closure notice, the provider shall give the Department the names and mailing addresses of the parents of each enrolled child so the Department can notify the parents of the immediate closure.

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

(9) If a person is providing care for more than 4 unrelated children without the appropriate license, the Department may:

- (a) issue a cease and desist order, or
- (b) allow the person to continue operation if:
  - (i) the person was unaware of the need for a license,
  - (ii) conditions do not create a clear and present danger to the children in care, and
  - (iii) the person agrees to apply for the appropriate license within 30 calendar days of notification by the Department.

(10) If a person providing care without the appropriate license agrees to apply for a license but does not submit an application and all required application documents within 30 days, the Department may issue a cease and desist order.

(11) A violation of any rule is punishable by an administrative civil money penalty of up to \$5,000 per day as provided in Utah Code, Section 26-39-601.

(12) Assessment of any civil money penalty does not prevent the Department from also taking action to deny, place on conditional status, revoke, immediately close, or refuse to renew a license.

(13) Assessment of any administrative civil money penalty under this section does not prevent court-ordered or other equitable remedies.

(14) The Department may deny an application or revoke a license for failure to pay any required fees, including fees for applications, late fees, returned checks, license changes, additional inspections, conditional monitoring inspections, background screenings, civil money penalties, and other fees assessed by the Department.

(15) An applicant or provider may appeal any Department decision within 30 days of being informed of the decision.

#### **R430-90-6. Administration and Children's Records.**

(1) The provider shall:

- (a) be at least 18 years of age;
- (b) pass a CCL background screening;
- (c) demonstrate lawful presence in the United States;
- (d) complete the new provider training offered by the Department; and
- (e) complete at least 20 hours of child care training each year, based on the facility's license date.

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

(3) The provider shall have knowledge of and comply with all federal, state, and local laws, ordinances, and rules, and shall be responsible for the operation and management of a child care program.

(4) The provider shall comply with licensing rules at all times when a child in care is present.

(5) The provider shall post the original child care license on the facility premises in a place readily visible and accessible to the public.

(6) The provider shall post a copy of the Department's Parent Guide at the facility for parent review during business hours, or give each parent a copy of the guide at enrollment.

(7) The provider shall inform parents and the Department of any changes to the program's telephone number and other contact information within 48 hours of the change.

(8) The provider shall establish, follow, and ensure that all staff and volunteers follow a written health and safety plan that is:

- (a) completed on the Department's required form;
- (b) submitted to the Department for initial approval and any time changes are made to the plan;
- (c) reviewed and updated as needed;
- (d) signed and dated at least annually; and
- (e) available for review by parents, staff, and the Department during business hours.

\_\_\_\_\_ (9) The provider shall ensure that each parent completes an admission and health assessment form for their child before the child is admitted into the child care program.

\_\_\_\_\_ (10) The admission and health assessment form shall include the following information:

\_\_\_\_\_ (a) child's name;

\_\_\_\_\_ (b) child's date of birth;

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

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

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

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

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

\_\_\_\_\_ (h) any known allergies of the child;

\_\_\_\_\_ (i) any known food sensitivities of the child;

\_\_\_\_\_ (j) any chronic medical conditions that the child may have;

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

\_\_\_\_\_ (l) current ongoing medications that the child may be taking; and

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

\_\_\_\_\_ (11) The admission and health assessment form shall:

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

\_\_\_\_\_ (b) kept on-site for review by the Department.

\_\_\_\_\_ (12) Before admitting any child younger than 5 years of age into the child care program, including the provider's and employees' own children, the provider shall obtain the following documentation from the child's parent:

\_\_\_\_\_ (a) current immunizations, as required by Utah law;

\_\_\_\_\_ (b) a medical schedule to receive required immunizations;

\_\_\_\_\_ (c) a legal exemption; or

\_\_\_\_\_ (d) a 90-day exemption for children who are homeless.

\_\_\_\_\_ (13) For each child younger than 5 years of age, including the provider's and employees' own children, the provider shall keep their current immunization records on-site for review by the Department.

\_\_\_\_\_ (14) The provider shall submit the annual immunization report to the Immunization Program in the Utah Department of Health by the date specified by the Department.

\_\_\_\_\_ (15) Each child's information shall be kept confidential and shall not be released without written parental permission.

#### **R430-90-7. Personnel and Training Requirements.**

\_\_\_\_\_ (1) The provider shall train and supervise employees and volunteers to ensure that they are qualified to:

\_\_\_\_\_ (a) meet the needs of the children as required by rule, and

\_\_\_\_\_ (b) be in compliance with all licensing rules.

\_\_\_\_\_ (2) Each week, the provider shall be present at the home at least 50% of the time that any child is in care; and whenever a child is in care, the provider, a caregiver who is at least 18 years old, or a substitute with authority to act on behalf of the provider shall be present.

\_\_\_\_\_ (3) Caregivers shall:

\_\_\_\_\_ (a) be at least 16 years old;

\_\_\_\_\_ (b) pass a CCL background screening;

\_\_\_\_\_ (c) receive at least 2.5 hours of preservice training before beginning job duties;

\_\_\_\_\_ (d) have knowledge of and follow all applicable laws and rules; and

\_\_\_\_\_ (e) complete at least 20 hours of child care training each year, based on the facility's license date.

\_\_\_\_\_ (4) Substitutes shall:

\_\_\_\_\_ (a) be at least 18 years old;

\_\_\_\_\_ (b) pass a CCL background screening;

\_\_\_\_\_ (c) be capable of providing care, supervising children, and handling emergencies in the provider's absence;

\_\_\_\_\_ (d) receive at least 2.5 hours of preservice training before beginning job duties; and

\_\_\_\_\_ (e) complete at least 1.5 hours of child care training for each month they work 40 hours or more.

\_\_\_\_\_ (5) All other employees such as drivers, cooks, and clerks shall:

\_\_\_\_\_ (a) pass a CCL background screening;

\_\_\_\_\_ (b) receive at least 2.5 hours of preservice training before beginning job duties, and

\_\_\_\_\_ (c) have knowledge of and follow all applicable laws and rules.

\_\_\_\_\_ (6) Volunteers shall:

\_\_\_\_\_ (a) pass a CCL background screening, and

\_\_\_\_\_ (b) not have unsupervised contact with any child in care if the volunteer is younger than 18 years of age.

\_\_\_\_\_ (7) Guests:

\_\_\_\_\_ (a) shall not have unsupervised contact with any child in care, and

\_\_\_\_\_ (b) are not required to pass a CCL background screening when they remain in the home for not more than 2 weeks.

\_\_\_\_\_ (8) Any individual who stays in the home for more than 2 weeks shall be considered a household member and shall be required to pass a CCL background screening.

\_\_\_\_\_ (9) Parents of children in care:

\_\_\_\_\_ (a) shall not have unsupervised contact with any child in care except their own, and

\_\_\_\_\_ (b) do not need a CCL background screening unless involved with child care in the facility.

\_\_\_\_\_ (10) Household members who are:

\_\_\_\_\_ (a) 12 to 17 years old shall pass a CCL background screening;

\_\_\_\_\_ (b) 18 years of age or older shall pass a CCL background screening that includes fingerprints; and

\_\_\_\_\_ (c) younger than 18 years of age shall not have unsupervised contact with any child in care including during offsite activities and transportation.

\_\_\_\_\_ (11) Individuals who provide IEP or IFSP services such as physical, occupational, or speech therapists:

\_\_\_\_\_ (a) are not required to have a CCL background screening as long as the child's parent has given permission for services to take place at the facility, and

\_\_\_\_\_ (b) shall provide proper identification before having access to the facility or a child at the facility.

\_\_\_\_\_ (12) Members from law enforcement or from Child Protective Services:

\_\_\_\_\_ (a) are not required to have a CCL background screening, and



\_\_\_\_\_ (b) shall provide proper identification before having access to the facility or a child at the facility.

\_\_\_\_\_ (13) Preservice training shall include the following:

\_\_\_\_\_ (a) job description and duties;

\_\_\_\_\_ (b) current Department rule sections R430-90-7 through 24;

\_\_\_\_\_ (c) the Department-approved health and safety plan that includes preparing for and responding to emergencies;

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

\_\_\_\_\_ (e) prevention of shaken baby syndrome and abusive head trauma, and coping with crying babies;

\_\_\_\_\_ (f) prevention of sudden infant death syndrome (SIDS) and the use of safe sleeping practices;

\_\_\_\_\_ (g) recognizing the signs of homelessness and available assistance;

\_\_\_\_\_ (h) a review of the information in each child's health assessment; and

\_\_\_\_\_ (i) an introduction and orientation to the children in care.

\_\_\_\_\_ (14) Documentation of each individual's preservice training shall be kept on-site for review by the Department and include the following:

\_\_\_\_\_ (a) training topics,

\_\_\_\_\_ (b) date of the training, and

\_\_\_\_\_ (c) total hours or minutes of training.

\_\_\_\_\_ (15) Annual child care training shall include the following topics:

\_\_\_\_\_ (a) current Department rule sections R430-90-7 through 24;

\_\_\_\_\_ (b) the Department-approved health and safety plan that includes preparing for and responding to emergencies;

\_\_\_\_\_ (c) the prevention, signs and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;

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

\_\_\_\_\_ (e) positive guidance and interactions with children;

\_\_\_\_\_ (f) prevention of shaken baby syndrome and abusive head trauma, and coping with crying babies;

\_\_\_\_\_ (g) prevention of sudden infant death syndrome (SIDS) and use of safe sleeping practices; and

\_\_\_\_\_ (h) recognizing the signs of homelessness and available assistance.

\_\_\_\_\_ (16) At least 10 of the 20 hours of annual child care training shall be face-to-face instruction.

\_\_\_\_\_ (17) Individuals who are required to receive annual child care training and who begin employment partway through the facility's license year shall complete a proportionate number of training hours including the face-to-face instruction.

\_\_\_\_\_ (18) Documentation of each individual's annual child care training shall be kept on-site for review by the Department and include the following:

\_\_\_\_\_ (a) training topic,

\_\_\_\_\_ (b) date of the training,

\_\_\_\_\_ (c) whether the training was face-to-face or non-face-to-face instruction,

\_\_\_\_\_ (d) name of the person or organization that presented the training, and

\_\_\_\_\_ (e) total hours or minutes of training.

\_\_\_\_\_ (19) Whenever there are children present, there shall be at least one caregiver present who can demonstrate English literacy skills needed to care for children and respond to emergencies.

\_\_\_\_\_ (20) At least one staff member with a current Red Cross, American Heart Association, or equivalent first aid and infant/child CPR certification shall be present when children are in care:

\_\_\_\_\_ (a) at the facility,

\_\_\_\_\_ (b) in each vehicle transporting children, and

\_\_\_\_\_ (c) at each offsite activity.

\_\_\_\_\_ (21) CPR certification shall include hands-on testing.

\_\_\_\_\_ (22) The following records for each covered individual shall be kept on-site for review by the Department:

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

\_\_\_\_\_ (b) a copy of the current background screening card issued by the Department;

\_\_\_\_\_ (c) a current first aid and CPR certification, if required in rule; and

\_\_\_\_\_ (d) a six-week record of the times worked each day.

#### **R430-90-8. Background Screenings.**

\_\_\_\_\_ (1) The provider shall ensure that an online CCL background screening form is submitted within 10 working days from when:

\_\_\_\_\_ (a) a new covered individual becomes involved with the program,

\_\_\_\_\_ (b) a new covered individual age 12 years or older begins living in the facility, and

\_\_\_\_\_ (c) a child who resides in the facility turns 12 years old.

\_\_\_\_\_ (2) Unless an exception is granted in rule, the provider shall ensure that a CCL background screening for each individual age 18 years or older includes fingerprints and fingerprints fees.

\_\_\_\_\_ (3) The fingerprints shall be prepared by a local law enforcement agency or an agency approved by local law enforcement.

\_\_\_\_\_ (4) If fingerprints are submitted through Live Scan (electronically), the agency taking the fingerprints shall follow the Department's guidelines.

\_\_\_\_\_ (5) Fingerprints are not required if:

\_\_\_\_\_ (a) the covered individual has resided in Utah continuously for the past 5 years, or since the individual's 18th birthday and will only be involved with child care in a program that was licensed or certified prior to 1 July 2013; or

\_\_\_\_\_ (b) the covered individual has previously submitted fingerprints to the Department under this section for a national criminal history record check and has resided in Utah continuously since that time.

\_\_\_\_\_ (6) Background screenings are valid for 1 year and shall be renewed before the last day of the month listed on the covered individual's background screening card.

\_\_\_\_\_ (7) At least 2 weeks before the end of the month that is written on a covered individual's background screening card, the provider shall:

\_\_\_\_\_ (a) have the individual submit an online CCL background screening form,

\_\_\_\_\_ (b) authorize the individual's background screening form, and

\_\_\_\_\_ (c) pay all required fees.

(8) Regardless of any exception in rule, if an in-state criminal background screening indicates that a covered individual age 18 years or older has a background finding, the Department may require that individual to submit fingerprints and fees in order for the Department to conduct a national criminal background screening for that individual.

(9) The following background findings shall deny a covered individual from being involved with child care:

(a) LIS supported findings,

(b) the individual's name appears on the Utah or national sex offender registry,

(c) any felony convictions,

(d) any Misdemeanor A convictions, or

(e) Misdemeanor B and C convictions for the reasons listed in R430-90-8(10).

(10) The following convictions, regardless of severity, may result in a background screening denial:

(a) unlawful sale or furnishing alcohol to minors;

(b) sexual enticing of a minor;

(c) cruelty to animals, including dogfighting;

(d) bestiality;

(e) lewdness, including lewdness involving a child;

(f) voyeurism;

(g) providing dangerous weapons to a minor;

(h) a parent providing a firearm to a violent minor;

(i) a parent knowing of a minor's possession of a dangerous weapon;

(j) sales of firearms to juveniles;

(k) pornographic material or performance;

(l) sexual solicitation;

(m) prostitution and related crimes;

(n) contributing to the delinquency of a minor;

(o) any crime against a person;

(p) a sexual exploitation act;

(q) leaving a child unattended in a vehicle; and

(r) driving under the influence (DUI) while a child is present in the vehicle.

(11) A covered individual with a Class A misdemeanor background finding not listed in R430-90-8(10) may be involved with child care when:

(a) 10 or more years have passed since the Class A misdemeanor offense, and

(b) there is no other conviction for the individual in the past 10 years.

(12) A covered individual with a Class A misdemeanor background finding not listed in R430-90-8(10) may be involved with child care for up to 6 months if:

(a) 5 to 9 years have passed since the offense,

(b) there is no other conviction since the Class A misdemeanor offense,

(c) the individual provides to the Department documentation of an active petition for expungement, and

(d) the provider ensures that the individual does not have unsupervised contact with any child in care.

(13) If a petition for expungement is denied, the covered individual shall no longer be involved with child care.

(14) A covered individual shall not be denied if the only background finding is a conviction or plea of no contest to a

nonviolent drug offense that occurred 10 or more years before the CCL background screening was conducted.

(15) The Department may rely on the criminal background screening findings as conclusive evidence of the arrest warrant, arrest, charge, or conviction; and the Department may revoke, suspend, or deny a license or employment based on that evidence.

(16) If the provider has a background screening denial, the Department may suspend or deny their license until the reason for the denial is resolved.

(17) If a covered individual has a background screening denial, the Department may prohibit that individual from being employed by the child care program or residing at the facility until the reason for the denial is resolved.

(18) If a covered individual is denied a license or employment based upon the criminal background screening and disagrees with the information provided by the Department of Public Safety, the covered individual may appeal the information as provided in Utah Code, Sections 77-18-10 through 77-18-14 and 77-18a-1.

(19) If a covered individual disagrees with a supported finding on the Department of Human Services Licensing Information System (LIS):

(a) the individual cannot appeal the supported finding to the Department of Health, and

(b) the covered individual may appeal the finding to the Department of Human Services and follow the process established by the Department of Human Services.

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

(21) The Executive Director of the Department of Health may overturn a background screening denial under the following conditions:

(a) the background finding is not a felony, and

(b) the Executive Director determines that the nature of the background finding or mitigating circumstances do not pose a risk to children.

#### **R430-90-9. Facility.**

(1) There shall be at least 35 square feet of indoor space for each child in care, including the provider's and employees' children.

(2) 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.

(3) The following areas are not included when measuring indoor space for children's use:

(a) bathrooms,

(b) closets,

(c) hallways, and

(d) entryways.

(4) The maximum allowed capacity for a child care facility may be limited by local ordinances.

(5) The number of children in care at any given time shall not exceed the capacity identified on the license.

(6) The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint is tested for lead. If lead-based paint is found, the provider shall contact their local health department within 5 working days and follow required procedures for remediation of the lead hazard.

(7) Each room and indoor area that is used by children shall be ventilated by mechanical ventilation, or by windows that open and have screens.

(8) All rooms and areas that are used for child care shall have adequate light intensity for the safety of the children and the type of activity being conducted.

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

(10) There shall be a working telephone in the home, in each vehicle while transporting children, and during offsite activities.

(11) There shall be a working toilet and a working handwashing sink accessible to each nondiapered child in care.

(12) A bathroom that provides privacy shall be available for use by school-age children.

(13) There shall be an outdoor area that is safely accessible to children.

(14) The outdoor area shall have at least 40 square feet of space for each child using the area at one time.

(15) The outdoor area shall be enclosed within a fence, wall, or solid natural barrier that is at least 4 feet high when the facility is on a street or within half a mile of a street that:

- (a) has a speed of 25 miles per hour or higher, or
- (b) has more than 2 lanes of traffic.

(16) The following hazards shall be separated from the children's outdoor area with a fence, wall, or solid natural barrier that is at least 4 feet high:

- (a) barbed wire that is within 30 feet of the children's play area;
- (b) livestock on or within 50 yards of the property line;
- (c) dangerous machinery, such as farm equipment, on or within 50 yards of the property line;
- (d) a drop-off of more than 5 feet on or within 50 yards of the property line; or
- (e) a water hazard, such as a swimming pool, pond, ditch, lake, reservoir, river, stream, creek, or animal watering trough, on or within 100 yards of the property line.

(17) There shall be no gap 5 by 5 inches or greater in or under the fence.

(18) Whenever there are children in the outdoor area, there shall be shade available to protect them from excessive sun and heat.

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

- (a) the provider shall meet applicable state and local laws and ordinances related to the operation of a swimming pool and maintain the pool in a safe manner; and
- (b) when not in use, the pool shall be enclosed within at least a 4-foot-high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises, or enclosed with a locked, properly working safety cover that meets ASTM Specification F1346-91.

(20) A hot tub on the premises with water in it shall be inaccessible to children by being:

- (a) kept locked with a properly working cover; or

(b) enclosed within at least a 4-foot-high fence or solid barrier that is kept locked and that separates the hot tub from any other areas on the premises.

(21) The provider shall maintain buildings and outdoor areas in good repair and safe condition including:

- (a) ceilings, walls, and floor coverings;
- (b) lighting, bathroom, and other fixtures;
- (c) draperies, blinds, and other window coverings;
- (d) indoor and outdoor play equipment;
- (e) furniture, toys, and materials accessible to the children;
- (f) entrances, exits, steps, and walkways including keeping them free of ice, snow and other hazards.

(22) Accessible raised decks or balconies that are 5 feet or higher, and open basement stairwells that are 5 feet or deeper shall have protective barriers that are at least 3 feet high.

(23) If the house is subdivided, any part of the house is rented out, or any other area of the facility is shared including the outdoor area, the entire facility shall be inspected and covered individuals in the facility shall comply with rules, except when all of the following conditions are met:

- (a) there is a signed rental/lease agreement between the provider and the individual responsible for or living in the other part of the house;
- (b) there is a separate mailing address;
- (c) there is a separate entrance for the child care program;
- (d) there are no connecting interior doorways that can be used by unauthorized individuals; and
- (e) there is no shared access to the outdoor area used for child care, or a qualified caregiver is present when children are using a shared outdoor area of the facility.

**R430-90-10. Ratios and Group Size.**

(1) The provider shall maintain at least 1 caregiver for up to 8 children in care, and at least 2 caregivers for 9 to 16 children in care.

(2) The provider's or an employee's child age 4 years or older is not counted in the caregiver-to-child ratio when the parent of the child is working at the facility, but the child shall be counted in the group size.

(3) When caring for children younger than 2 years old:

- (a) there shall be no more than 2 children younger than 2 years old with 1 caregiver;
- (b) there shall be no more than 4 children younger than 2 years old with 2 caregivers; and
- (c) if there are 6 or fewer children in care, there may be up to 3 children younger than 2 years old with 1 caregiver.

(4) The provider shall not exceed the group sizes found in Table 1 and Table 2.

TABLE 1  
MAXIMUM GROUP SIZE WITH 1 PROVIDER

# of Provider's and Caregivers' Own Children Ages 4-12 Years Present During Child Care Hours	Maximum Allowed # of Children in Care, Including the Provider's and Caregivers' Own Children Younger than 4 years old	Total # of Children Through age 12 Years Present in the Home During Child Care Hours
0-4 Children	8 children	12 Children
5 Children	7 children	12 Children
6 Children	6 children	12 Children

7 Children	5 children	12 Children
8 Children	4 children	12 Children
9 Children	3 children	12 Children
10 Children	2 children	12 Children
11 Children	1 child	12 Children

TABLE 2  
MAXIMUM GROUP SIZE WITH 2 CAREGIVERS

# of Provider's and Caregivers' Own Children	Maximum Allowed # of Children in Care, Including the Provider's and Caregivers' Own Children	Total # of Children Through age 12 Years Present in the Home During Child Care Hours
0-8 Children	16 children	24 Children
9 Children	15 children	24 Children
10 Children	14 children	24 Children
11 Children	13 children	24 Children
12 Children	12 children	24 Children
13 Children	11 children	24 Children
14 Children	10 children	24 Children
15 Children	9 children	24 Children
16 Children	8 children	24 Children
17 Children	7 children	24 Children
18 Children	6 children	24 Children
19 Children	5 children	24 Children
20 Children	4 children	24 Children
21 Children	3 children	24 Children
22 Children	2 children	24 Children
23 Children	1 child	24 Children

(5) Caregivers who are 16 or 17 years old may be included in the caregiver-to-child ratio only when there is a caregiver who is at least 18 years on the premises.

(6) Volunteers may be included in the caregiver-to-child ratio if they:

- (a) are at least 16 years old,
  - (b) receive at least 2.5 hours of preservice training before counting in the caregiver-to-child ratio, and
  - (c) complete at least 1.5 hours of child care training for each month they volunteer 40 hours or more.
- (7) Guests shall not count in the caregiver-to-child ratio.

**R430-90-11. Child Supervision and Security.**

(1) The provider shall ensure that caregivers provide and maintain active supervision of each child at all times:

- (a) a caregiver shall be inside the home when any child in care is inside the home,
- (b) a caregiver shall be in the outdoor area when any child younger than 5 years old is in the outdoor area,
- (c) caregivers shall know the number of children in their care at all times, and
- (d) caregivers' attention shall be focused on the children and not on the caregivers' own personal interests.

(2) A caregiver may allow only school-age children to play outdoors while the caregiver is indoors when:

- (a) the caregiver can hear the children playing outdoors; and
- (b) the children are in an area completely enclosed within a fence, wall, or solid natural barrier that is at least a 4 feet high.

(3) A caregiver shall monitor each sleeping infant by:

- (a) placing each infant to sleep within the sight and hearing of the caregiver, or

(b) personally observing each sleeping infant at least once every 15 minutes.

(4) A child may participate in supervised offsite activities without the provider if:

(a) the provider has prior written permission from the child's parent for the child's participation, and

(b) the provider has clearly assigned the responsibility for the child's whereabouts and supervision to a responsible adult who accepts that responsibility throughout the period of the offsite activity.

(5) Whenever a child is in care, the child's parent shall have access to their child and the areas used to care for their child.

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

- (a) each child is signed in and out;
- (b) only parents or persons with written authorization from the parent may sign out a child;

(c) photo identification is required if the individual signing the child in or out is unknown to the provider;

(d) persons signing children in and out use identifiers, such as a signature, initials, or electronic code;

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

(f) there is written permission from their parents if school-age children sign themselves in and out.

(7) In an emergency, the caregiver shall accept the parent's verbal authorization to release a child when the caregiver can confirm the identity of:

- (a) the person giving verbal authorization, and
- (b) the person picking up the child.

(8) A six-week record of each child's daily attendance, including sign-in and sign-out records, shall be kept on-site for review by the Department.

**R430-90-12. Child Guidance and Interaction.**

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

(2) The provider shall inform parents, children, and those who interact with the children of the program's behavioral expectations and how any misbehavior will be handled.

(3) Individuals who interact with the children shall guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.

(4) Caregivers shall use gentle, passive restraint with children only when it is needed to stop children from injuring themselves or others, or from destroying property.

(5) Interactions with the children shall not include:

- (a) any form of corporal punishment or any action that produces physical pain or discomfort such as hitting, spanking, shaking, biting, or pinching;
- (b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint;
- (c) shouting at children;
- (d) any form of emotional abuse;
- (e) forcing or withholding food, rest, or toileting; or
- (f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.

(6) Any person who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately

notify Child Protective Services or law enforcement as required in Utah Code Section 62A-4a-403 and Section 62A-4a-411.

**R430-90-13. Child Safety and Injury Prevention.**

(1) The building, outdoor area, toys, and equipment shall be used in a safe manner and as intended by the manufacturer to prevent injury to children.

(2) Harmful objects and hazards, such as the following, shall be inaccessible to children:

(a) poisonous and harmful plants;

(b) sharp objects, edges, corners, or points that could cut or puncture skin;

(c) for children younger than 3 years of age, choking hazards;

(d) strangulation hazards such as ropes, cords, chains, and wires attached to a structure and long enough to encircle a child's neck;

(e) tripping hazards such as unsecured flooring, rugs with curled edges, or cords in walkways;

(f) for children younger than 5 years of age, empty plastic bags large enough for a child's head to fit inside, latex gloves, and balloons; and

(g) standing water that is 2 inches or deeper and 5 by 5 inches or greater in diameter.

(3) Toxic or hazardous chemicals such as cleaners, insecticides, lawn products, and flammable materials shall be:

(a) inaccessible to children;

(b) used according to manufacturer instructions, and

(c) stored in containers labeled with their contents.

(4) Items and substances that could burn a child or start a fire shall be inaccessible, such as:

(a) matches or cigarette lighters;

(b) open flames;

(c) hot wax or other substances; and

(d) when in use, portable space heaters, wood burning stoves, and fireplaces of all types.

(5) Children shall be protected from items that cause electrical shock such as:

(a) live electrical wires; and

(b) for children younger than 5 years of age, electrical outlets and surge protectors without protective caps or safety devices when not in use.

(6) Unless used and stored in compliance with the Utah Concealed Weapons Act or as otherwise allowed by law, firearms such as guns, muzzles loaders, rifles, shotguns, hand guns, pistols, and automatic guns shall:

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

(b) stored unloaded and separate from ammunition.

(7) Weapons such as paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace shall be inaccessible to children.

(8) Alcohol, illegal substances, and sexually explicit material shall be inaccessible, and shall not be used on the premises, during offsite activities, or in program vehicles any time a child is in care.

(9) An outdoor source of drinking water, such as individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain shall be available to each child whenever the outside temperature is 75 degrees or higher.

(10) Areas accessible to children shall be free of heavy or unstable objects that children could pull down on themselves, such as furniture, unsecured televisions, and standing ladders.

(11) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.

(12) Highchairs shall have T-shaped safety straps or devices that are used whenever a child is in the chair.

(13) Infant walkers with wheels shall be inaccessible to children.

(14) In compliance with the Utah Indoor Clean Air Act, tobacco, e-cigarettes, e-juice, e-liquids, and similar products shall be inaccessible and not used:

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

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

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

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

**R430-90-14. Emergency Preparedness and Response.**

(1) The provider shall post the home's street address and emergency numbers, including ambulance, fire, police, and poison control, near a telephone in the home or in an area clearly visible to anyone needing the information.

(2) The provider shall keep first-aid supplies in the home, including at least antiseptic, band-aids, and tweezers.

(3) The provider shall conduct fire evacuation drills quarterly. Drills shall include a complete exit of all children, staff, and volunteers from the home.

(4) The provider shall document each fire drill, including:

(a) the date and time of the drill,

(b) the number of children participating,

(c) the total time to complete the evacuation, and

(d) any problems encountered.

(5) The provider shall conduct drills for disasters other than fires at least once every 12 months.

(6) A provider shall document each disaster drill, including:

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

(b) the date and time of the drill;

(c) the number of children participating;

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

(e) any problems encountered.

(7) The provider shall vary the days and times on which fire and other disaster drills are held.

(8) The provider shall keep documentation of the previous 12 months of quarterly fire drills and annual disaster drills on-site for review by the Department.

(9) In case of an emergency or disaster, the provider and all employees shall follow procedures as outlined in the facility's health and safety plan.

(10) If the provider must leave the premises due to an emergency, the provider may use an emergency substitute who was not named in the facility's health and safety plan.

(11) The emergency substitute:

(a) shall be at least 18 years old;

\_\_\_\_\_ (b) is not required to have a CCL background screening; and

\_\_\_\_\_ (c) is not required to meet the training, first aid, and CPR requirements of this rule.

\_\_\_\_\_ (12) Before the provider may leave the children in the care of the emergency substitute, the provider shall first obtain a signed, written statement from the individual that they:

\_\_\_\_\_ (a) have not been convicted of a felony or misdemeanor;

\_\_\_\_\_ (b) do not have a substantiated background finding; and

\_\_\_\_\_ (c) are not being investigated for abuse or neglect by any federal, state, or local government agency.

\_\_\_\_\_ (13) The emergency substitute's written background statement shall be submitted to the Department for review within 5 working days after the occurrence.

\_\_\_\_\_ (14) During the term of the emergency, the emergency substitute may be counted in the caregiver-to-child ratio.

\_\_\_\_\_ (15) The provider shall make reasonable efforts to minimize the time that the emergency substitute has unsupervised contact with the children in care, and the amount of time shall not be more than 24 hours per emergency incident.

\_\_\_\_\_ (16) The provider shall give parents a verbal report of every minor incident, accident, or injury involving their child on the day of the occurrence.

\_\_\_\_\_ (17) The provider shall give parents a written report of every serious incident, accident, or injury involving their child:

\_\_\_\_\_ (a) The caregivers involved, the provider, and the person picking up the child shall sign the report on the day of occurrence.

\_\_\_\_\_ (b) If school-age children sign themselves out of the facility, a copy of the report shall be sent to the parent on the day following the occurrence.

\_\_\_\_\_ (18) If a child is injured and the injury appears serious but not life-threatening, the child's parent shall be contacted immediately.

\_\_\_\_\_ (19) 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:

\_\_\_\_\_ (a) emergency personnel shall be called immediately;

\_\_\_\_\_ (b) after emergency personnel are called, then the parent shall be contacted;

\_\_\_\_\_ (c) if the parent cannot be reached, staff shall try to contact the child's emergency contact person.

\_\_\_\_\_ (20) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall:

\_\_\_\_\_ (a) submit a completed accident report form to the Department within the next business day of the incident; or

\_\_\_\_\_ (b) contact the Department within the next business day and submit a completed accident report form within 5 business days of the incident.

\_\_\_\_\_ (21) The provider shall keep a six-week record of every serious incident, accident, and injury report on-site for review by the Department.

#### **R430-90-15. Health and Infection Control.**

\_\_\_\_\_ (1) The building, furnishings, equipment, and outdoor area shall be kept clean and sanitary including:

\_\_\_\_\_ (a) ceilings, walls, and flooring shall be clean and free of spills, dirt, and grime;

\_\_\_\_\_ (b) areas and equipment used for the storage, preparation, and service of food shall be clean and sanitary;

\_\_\_\_\_ (c) surfaces used by children shall be free of rotting food or a build-up of food;

\_\_\_\_\_ (d) the building and grounds shall be free of a build-up of litter, trash, and garbage; and

\_\_\_\_\_ (e) the facility shall be free of animal feces.

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

\_\_\_\_\_ (3) All toys and materials including those used by infants and toddlers shall be cleaned:

\_\_\_\_\_ (a) at least weekly or more often if needed,

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

\_\_\_\_\_ (c) after being contaminated by a body fluid.

\_\_\_\_\_ (4) Fabric toys and items such as stuffed animals, cloth dolls, pillows, and dress-up clothes shall be machine washable and washed weekly, and as needed.

\_\_\_\_\_ (5) Highchair trays shall be cleaned and sanitized before each use.

\_\_\_\_\_ (6) Water play tables or tubs shall be cleaned and sanitized daily, if used by the children.

\_\_\_\_\_ (7) Bathroom surfaces including toilets, sinks, faucets, and counters shall be cleaned and sanitized each day.

\_\_\_\_\_ (8) Potty chairs shall be cleaned and sanitized after each use.

\_\_\_\_\_ (9) Toilet paper shall be accessible to children and kept in a dispenser.

\_\_\_\_\_ (10) Only single-use paper towels or individually labeled cloth towels shall be used to dry a child's hands.

\_\_\_\_\_ (11) If cloth towels are used:

\_\_\_\_\_ (a) they shall not be shared by children, caregivers, or volunteers; and

\_\_\_\_\_ (b) towels shall be washed daily.

\_\_\_\_\_ (12) Staff and volunteers shall wash their hands thoroughly with soap and running water at required times including:

\_\_\_\_\_ (a) before handling or preparing food or bottles,

\_\_\_\_\_ (b) before and after eating meals and snacks or feeding a child,

\_\_\_\_\_ (c) after using the toilet or helping a child use the toilet,

\_\_\_\_\_ (d) after contact with a body fluid,

\_\_\_\_\_ (e) when coming in from outdoors, and

\_\_\_\_\_ (f) after cleaning up or taking out garbage.

\_\_\_\_\_ (13) Caregivers shall teach children how to wash their hands thoroughly and shall oversee handwashing whenever possible.

\_\_\_\_\_ (14) The provider shall ensure that children wash their hands thoroughly with soap and running water at required times including:

\_\_\_\_\_ (a) before and after eating meals and snacks,

\_\_\_\_\_ (b) after using the toilet,

\_\_\_\_\_ (c) after contact with a body fluid,

\_\_\_\_\_ (d) before using a water play table or tub, and

\_\_\_\_\_ (e) when coming in from outdoors.

\_\_\_\_\_ (15) Personal hygiene items, such as toothbrushes, combs, and hair accessories, shall not be shared and shall be stored so they do not touch each other, or they shall be sanitized between each use.

\_\_\_\_\_ (16) Pacifiers, bottles, and nondisposable drinking cups shall:

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

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

(17) A child's clothing shall be promptly changed if the child has a toileting accident.

(18) If a child's clothing is wet or soiled from a body fluid, the provider shall ensure that:

(a) the clothing is washed and dried, or

(b) the clothing is placed in a leakproof container that is labeled with the child's name and returned to the parent.

(19) Staff shall take precautions when cleaning floors, furniture, and other surfaces contaminated by blood, urine, feces, and vomit. Except for diaper changes and toileting accidents, staff shall:

(a) wear waterproof gloves;

(b) clean the surface using a detergent solution;

(c) rinse the surface with clean water;

(d) sanitize the surface;

(e) throw away in a leakproof plastic bag the disposable materials, such as paper towels, that were used to clean up the body fluid;

(f) wash and sanitize any nondisposable materials used to clean up the body fluid, such as cleaning cloths, mops, or reusable rubber gloves, before reusing them; and

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

(20) A child who becomes ill with an infectious disease while in care shall be made comfortable in a safe, supervised area that is separated from the other children.

(21) If a child becomes ill while in care, the provider shall contact the child's parent as soon as the illness is observed or suspected.

(22) The parents of every child in care shall be informed when any child, employee, or person in the home has an infectious disease or parasite. Parents shall be notified on the day the illness is discovered.

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

#### **R430-90-16. Food and Nutrition.**

(1) The provider shall ensure that each child age 2 years and older is offered a meal or snack at least once every 3 hours.

(2) When food for children's meals and/or snacks is supplied by the provider:

(a) the meal service shall meet local health department food service regulations;

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

(c) the provider shall use the CACFP menus, the standard Department-approved menus, 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;

(d) the current week's menu shall be posted for review by parents and the Department; and

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

(3) The person who serves food to children shall:

(a) be aware of the children in their assigned group who have food allergies or sensitivities, and

(b) ensure that the children are not served the food or drink they are allergic or sensitive to.

(4) Children's food shall be served on dishes, napkins, or sanitary highchair trays, except an individual finger food, such as a cracker, that may be placed directly in a child's hand. Food shall not be placed on a bare table.

(5) Food and drink brought in by parents for their child's use shall be:

(a) labeled with the child's name or individually identified,

(b) refrigerated if needed, and

(c) consumed only by that child.

#### **R430-90-17. Medications.**

(1) All medications shall be inaccessible to children.

(2) All liquid refrigerated medications shall be stored in a separate leakproof container.

(3) All over-the-counter and prescription medications supplied by parents 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.

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

(5) The medication permission form shall include:

(a) the name of the child,

(b) the name of the medication,

(c) written instructions for administration, and

(d) the parent signature and the date signed.

(6) The instructions for administering the medication shall include:

(a) the dosage,

(b) how the medication will be given,

(c) the times and dates to administer the medication, and

(d) the disease or condition being treated.

(7) If the provider supplies an over-the-counter medication for children's use, the medication shall not be administered to any child without previous parental consent for each instance it is given. The consent shall be:

(a) prior written consent; or

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

(8) The caregiver administering the medication shall:

(a) wash their hands,

(b) check the medication label to confirm the child's name if the parent supplied the medication,

(c) check the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer, and

(d) administer the medication.

(9) Immediately after administering a medication, the caregiver giving the medication shall record the following information:

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

(b) any errors in administration or adverse reactions; and

\_\_\_\_\_ (c) their signature or initials.

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

\_\_\_\_\_ (11) 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 before the time the medication needs to be given.

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

#### **R430-90-18. Activities.**

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

\_\_\_\_\_ (2) Daily activities shall include outdoor play as weather and air quality allow.

\_\_\_\_\_ (3) Physical development activities shall include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every 2 hours children spend in the program.

\_\_\_\_\_ (4) For children 2 years old and older, the provider shall post a daily schedule that includes:

\_\_\_\_\_ (a) activities that support children's healthy development; and

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

\_\_\_\_\_ (5) Toys, materials, and equipment needed to support children's healthy development shall be available to the children.

\_\_\_\_\_ (6) Except for occasional special events, children's screen time on media such as television, cell phones, tablets, and computers shall:

\_\_\_\_\_ (a) not be allowed for children 0 to 17 months old;

\_\_\_\_\_ (b) be limited for children 18 months to 4 years old to 1 hour per day, or 5 hours per week with a maximum screen time of 2 hours per activity; and

\_\_\_\_\_ (c) be part of a media plan that addresses the needs of children 5 to 12 years old.

\_\_\_\_\_ (7) If swimming activities are offered or if wading pools are used:

\_\_\_\_\_ (a) the provider shall obtain parental permission before each child in care uses the pool;

\_\_\_\_\_ (b) caregivers shall stay at the pool supervising whenever a child is in the pool or has access to the pool, and whenever a wading pool has water in it;

\_\_\_\_\_ (c) diapered children shall wear swim diapers whenever they are in the pool;

\_\_\_\_\_ (d) wading pools shall be emptied and sanitized after use by each group of children;

\_\_\_\_\_ (e) if the pool is over 4 feet deep, there shall be a lifeguard on duty who is certified by the Red Cross or other approved certification program any time children have access to the pool; and

\_\_\_\_\_ (f) lifeguards and pool personnel shall not count toward the caregiver-to-child ratio.

\_\_\_\_\_ (8) If offsite activities are offered:

\_\_\_\_\_ (a) the provider shall obtain written parental consent before each activity;

\_\_\_\_\_ (b) the required caregiver-to-child ratio and supervision shall be maintained during the entire activity;

\_\_\_\_\_ (c) a first aid kit shall be available;

\_\_\_\_\_ (d) children's names shall not be used on nametags, t-shirts, or in other visible ways; and

\_\_\_\_\_ (e) there shall be a way for caregivers and children to wash their hands with soap and water, or if there is no source of running water, caregivers and children shall clean their hands with wet wipes and hand sanitizer.

\_\_\_\_\_ (9) On every offsite activity, caregivers shall take the written emergency information and releases for each child in the group. The information shall include:

\_\_\_\_\_ (a) the child's name;

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

\_\_\_\_\_ (c) the name and phone number of a person to notify in case of an emergency if the parent cannot be contacted;

\_\_\_\_\_ (d) the names of people authorized by the parents to pick up the child, and

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

#### **R430-90-19. Play Equipment.**

\_\_\_\_\_ (1) The provider shall ensure that children using play equipment use it safely and in the manner intended by the manufacturer.

\_\_\_\_\_ (2) There shall be no entrapment hazards on or within the use zone of any piece of stationary play equipment.

\_\_\_\_\_ (3) There shall be no strangulation hazards on or within the use zone of any piece of stationary play equipment.

\_\_\_\_\_ (4) There shall be no crush, shearing, or sharp edge hazards on or within the use zone of any piece of stationary play equipment.

\_\_\_\_\_ (5) 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.

\_\_\_\_\_ (6) There shall be no heavy metal swings, such as animal-shaped swings, accessible to children.

\_\_\_\_\_ (7) Cushioning for stationary play equipment shall cover the entire surface of each required use zone.

\_\_\_\_\_ (8) If ASTM cushioning is used, the provider shall keep on-site for review by the Department the documentation from the manufacturer that the material meets ASTM Specification F1292.

\_\_\_\_\_ (9) Stationary play equipment with a designated play surface that measures 6 inches or higher shall not be placed on a hard surface such as concrete, asphalt, dirt, or the bare floor, but may be placed on grass or other cushioning.

\_\_\_\_\_ (10) Except for trampolines, stationary play equipment that is 18 inches or higher shall:

\_\_\_\_\_ (a) have a 3-foot use zone that is free of hard objects or surfaces and that extends from the outermost edge of the equipment; and

\_\_\_\_\_ (b) be stable and securely anchored.

\_\_\_\_\_ (11) A trampoline shall be considered accessible to children in care unless the trampoline:

\_\_\_\_\_ (a) is enclosed behind at least a 3-foot high, locked fence or barrier;

\_\_\_\_\_ (b) has no jumping mat;

\_\_\_\_\_ (c) is placed upside down, or

\_\_\_\_\_ (d) is enclosed within at least a 6-foot-high safety net that is locked.



(12) An accessible trampoline without a safety net enclosure shall be placed at least 6 feet away from any structure or object onto which a child could fall, including play equipment, trees, and fences.

(13) An accessible trampoline with a safety net enclosure shall be placed at least 3 feet away from any structure or object onto which a child could fall, including play equipment, trees, and fences if the net:

(a) is properly installed and used as specified by the manufacturer.

(b) is in good repair, and

(c) is at least 6 feet tall.

(14) An accessible trampoline shall be placed over grass, 6-inch-deep cushioning, or ASTM-approved cushioning. Cushioning shall extend at least 6 feet from the outermost edge of the trampoline frame, or at least 3 feet from the outermost edge of the trampoline frame if a net is used as specified in R430-90-19(13).

(15) There shall be no ladders or other objects within the use zone of an accessible trampoline that a child could use to climb on the trampoline.

(16) An accessible trampoline shall have shock-absorbing pads that completely cover its springs, hooks, and frame.

(17) Before a child in care uses a trampoline, the child's parent shall sign a Department-approved permission form that the provider keeps on-site for review by the Department.

(18) When a trampoline is being used by a child in care:

(a) a caregiver shall be at the trampoline supervising.

(b) only one person at a time shall use a trampoline.

(c) no child in care shall be allowed to do somersaults or flips on the trampoline, and

(d) no one shall be allowed to play under the trampoline when it is in use.

#### **R430-90-20. Transportation.**

If transportation services are offered:

(1) For each child being transported, the provider shall have a transportation permission form:

(a) signed by the parent, and

(b) on-site for review by the Department.

(2) Each vehicle used for transporting children shall:

(a) be enclosed with a roof or top.

(b) be equipped with safety restraints.

(c) have a current vehicle registration.

(d) be maintained in a safe and clean condition.

(e) contain a first aid kit, and

(f) contain a body fluid clean up kit.

(3) The safety restraints in each vehicle that transports children shall:

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

(b) be properly installed; and

(c) be in safe condition and working order.

(4) The driver of each vehicle who is transporting children shall:

(a) be at least 18 years old;

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

(c) have with them the written emergency contact information for each child being transported;

(d) ensure that each child being transported is in an individual safety restraint that is used according to Utah law;

(e) ensure that the inside vehicle temperature is between 60-85 degrees Fahrenheit;

(f) never leave a child in the vehicle unattended by an adult;

(g) ensure that children stay seated while the vehicle is moving;

(h) never leave the keys in the ignition when not in the driver's seat; and

(i) ensure that the vehicle is locked during transport.

(5) When the provider walks or uses public transportation to transport children to or from the facility, the provider shall ensure that:

(a) each child being transported has a completed transportation permission form signed by their parent.

(b) a caregiver goes with the children and actively supervises them.

(c) the caregiver-to-child ratio is maintained, and

(d) caregivers take each child's written emergency contact information and releases with them.

#### **R430-90-21. Animals.**

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

(2) There shall be no animal on the premises that:

(a) is naturally aggressive;

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

(c) has a history of biting even one person.

(3) Animals at the facility shall be clean and free of obvious disease or health problems that could adversely affect children.

(4) There shall be no animal or animal equipment in food preparation or eating areas during food preparation or eating times.

(5) Children younger than 5 years of age shall not assist with the cleaning of animals or animal cages, pens, or equipment.

(6) If school-age children help in the cleaning of animals or animal equipment, the children shall wash their hands immediately after cleaning the animal or equipment.

(7) Children and staff shall wash their hands immediately after playing with or touching animals, including reptiles and amphibians.

(8) Dogs, cats, and ferrets that are housed at the facility shall have current rabies vaccinations.

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

#### **R430-90-22. Rest and Sleep.**

(1) The provider shall offer children in care a daily opportunity for rest or sleep in an environment with subdued lighting, a low noise level, and freedom from distractions.

(2) Nap or rest times shall not be scheduled for more than 2 hours daily.

(3) Each crib used by children shall:

(a) have a tight-fitting mattress;

(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, or at least 12 inches from the top of the mattress to

the top of the crib rail if the child using the crib cannot sit up without help:

- (d) not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child; and
- (e) meet CPSC standards.
- (4) Sleeping equipment may not block exits.
- (5) Sleeping equipment and bedding items that are clearly assigned to and used by an individual child shall be cleaned and sanitized as needed and at least weekly.
- (6) Sleeping equipment and bedding items that are not clearly assigned to and used by an individual child shall be cleaned and sanitized before each use.

#### **R430-90-23. Diapering.**

If the provider accepts children who wear diapers:

- (1) Caregivers shall ensure that each child's diaper is:
  - (a) checked at least once every 2 hours,
  - (b) promptly changed when wet or soiled, and
  - (c) checked as soon as a sleeping child awakens.
- (2) The diapering area shall not be located in a food preparation or eating area.
- (3) Children shall not be diapered directly on the floor, or on any surface used for another purpose.
- (4) The diapering surface shall be smooth, waterproof, and in good repair.
- (5) Caregivers shall clean and sanitize the diapering surface after each diaper change, or use a disposable, waterproof diapering surface that is thrown away after each diaper change.
- (6) Caregivers shall wash their hands after each diaper change.
- (7) Caregivers shall place wet and soiled disposable diapers:
  - (a) in a container that has a disposable plastic lining and a tight-fitting lid,
  - (b) directly in an outdoor garbage container that has a tight-fitting lid, or
  - (c) in a container that is inaccessible to children.
- (8) Indoor containers where wet and soiled diapers are placed shall be cleaned and sanitized each day.
- (9) If cloth diapers are used:
  - (a) they shall not be rinsed at the facility; and
  - (b) they shall be placed directly into a leakproof container that is inaccessible to any child and labeled with the child's name, or placed in a leakproof diapering service container.

#### **R430-90-24. Infant and Toddler Care.**

If the provider cares for infants or toddlers:

- (1) Each awake infant and toddler shall receive positive physical and verbal interaction with a caregiver at least once every 20 minutes.
- (2) To stimulate their healthy development, the provider shall ensure that infants receive daily interactions with adults, including on-the-ground interaction and closely supervised time spent in the prone position for infants younger than 6 months of age.
- (3) Caregivers shall respond promptly to infants and toddlers who are in emotional distress due to conditions such as hunger, fatigue, a wet or soiled diaper, fear, teething, or illness.

(4) For their healthy development, safe toys shall be available for infants and toddlers. There shall be enough toys accessible to each infant and toddler in the group to engage in play.

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

(6) An awake infant or toddler shall not be confined for more than 30 minutes in any piece of equipment, such as a swing, high chair, crib, playpen, or other similar piece of equipment.

(7) 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.

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

(9) Each infant and toddler shall be allowed to eat and sleep on their own schedule.

(10) Baby food, formula, or breast milk that is brought from home for an individual child's use shall be:

- (a) labeled with the child's name;
- (b) kept refrigerated if needed; and
- (c) discarded within 24 hours of preparation or opening, except for unprepared powdered formula or dry food.

(11) If an infant is unable to sit upright and hold their own bottle, a caregiver shall hold the infant during bottle feeding. Bottles shall not be propped.

(12) The caregiver shall swirl and test warm bottles for temperature before feeding to children.

(13) Formula and milk, including breast milk, shall be discarded after feeding or within 2 hours of starting a feeding.

(14) Caregivers shall cut solid foods for infants into pieces no larger than 1/4 inch in diameter, and shall cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.

(15) Infants shall sleep in equipment designed for sleep, such as a crib, bassinet, porta-crib or play pen. An infant shall not be placed to sleep on a mat, cot, pillow, bouncer, swing, car seat, or other similar piece of equipment unless the provider has written permission from the infant's parent.

(16) Infants shall be placed on their backs for sleeping unless there is documentation from a health care provider requiring a different sleep position.

**KEY: child care facilities, licensed family child care**

**Date of Enactment or Last Substantive Amendment: [~~March 30, 2016~~2017]**

**Notice of Continuation: May 29, 2013**

**Authorizing, and Implemented or Interpreted Law: 26-39**

Health, Family Health and  
Preparedness, Licensing  
**R432-300**  
Small Health Care Facility - Type N

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 42000

FILED: 08/07/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule amendment is to define which Cardiopulmonary Resuscitation (CPR) Certification courses can be utilized to obtain CPR Certification, and to amend incorrect references and wording. The Health Facility Committee reviewed and approved these rule amendments on 05/10/2017.

**SUMMARY OF THE RULE OR CHANGE:** The rule amendment defines which courses can be utilized to certify Small Health Care Facility - Type N staff in CPR. This amendment also corrects many outdated references and corrects errors.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Title 26, Chapter 21

**ANTICIPATED COST OR SAVINGS TO:**

- ◆ **THE STATE BUDGET:** After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to the state budget because this amendment simply updates references and clarifies the rule requirements.
- ◆ **LOCAL GOVERNMENTS:** After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to the local government budget because this amendment simply updates references and clarifies the rule requirements.
- ◆ **SMALL BUSINESSES:** After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to the small businesses budget because this amendment simply updates references and clarifies the rule requirements.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to businesses, individuals, local governments, and persons that are not small businesses because this amendment simply updates references and clarifies the rule requirements.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to affected persons because this amendment simply updates references and clarifies the rule requirements.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** There will be no fiscal impact on business.

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

HEALTH  
 FAMILY HEALTH AND PREPAREDNESS,  
 LICENSING  
 3760 S HIGHLAND DR

SALT LAKE CITY, UT 84106  
 or at the Office of Administrative Rules.

**DIRECT QUESTIONS REGARDING THIS RULE TO:**  
 ◆ Carmen Richins by phone at 801-273-2802, by FAX at 801-274-0658, or by Internet E-mail at carmenrichins@utah.gov  
 ◆ Joel Hoffman by phone at 801-273-2804, by FAX at 801-274-0658, or by Internet E-mail at jhoffman@utah.gov

**INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/02/2017**

**THIS RULE MAY BECOME EFFECTIVE ON:** 10/09/2017

**AUTHORIZED BY:** Joseph Miner, MD, Executive Director

**R432. Health, Family Health and Preparedness, Licensing.**

**R432-300. Small Health Care Facility - Type N.**

**R432-300-4. Definitions.**

- (1) Refer to common definitions R432-1-3, in addition;
- (2) Certification in Cardiopulmonary Resuscitation (CPR) refers to certification issued after completion of a course that is consistent with the most current version of the American Heart Association Guidelines for Health Care Provider CPR.
- (3) "Dependent" means a person who meets one or all of the following criteria:
  - (a) requires inpatient hospital or 24 hour continual nursing care that will last longer than 15 calendar days after the day on which the nursing care begins;
  - (b) is unable to evacuate from the facility without the physical assistance of two persons.
- ([3]4) "Health care setting" means a health care facility or agency, either public or private, that is involved in the provision or delivery of nursing care.
- ([4]5) "Licensed health care professional" means a registered nurse, physician assistant, advanced practice nurse, or physician licensed by the Utah Department of Commerce who has education and experience to assess and evaluate the health care needs of a resident.
- ([5]6) "Owner or licensee" means a licensed nurse who resides in the facility and provides daily direct care during daytime hours to residents in the facility as opposed to simply working a duty shift in the facility.
- ([6]7) "Semi-independent" means a person who is:
  - (a) physically disabled, but able to direct his own care; or
  - (b) cognitively impaired or physically disabled, but able to evacuate from the facility with the physical assistance of one person.
- ([7]8) "Significant change" means a major change in a resident's status that is not self-limiting, impacts on more than one area of the resident's health status, and requires interdisciplinary review or revision of the service plan.
- ([8]9) "Small Health Care Facility - Type N" means a home or a residence occupied by the licensee, who is a licensed nurse, that provides protected living arrangements plus nursing care and services on a daily basis for two to three individuals unrelated to the licensee.

**R432-300-8. Administration and Organization.**

(1) The licensee is responsible for compliance with Utah law and licensing requirements, management, operation, and control of the facility.

(2) The licensee is responsible to establish and implement facility policies and procedures. Policies and procedures must reflect current facility practice.

(3) The licensee must be a licensed nurse with at least two years experience working in a health care setting, and must provide nursing coverage on a daily basis during daytime hours of operation. [~~Facilities licensed prior to July 1, 1998, that do not have a licensed nurse residing in the facility, must provide 24-hour certified nurse aide coverage.~~]

(4) The licensee must employ sufficient staff to meet the needs of the residents.

(5) All employees must be 18 years of age, and successfully complete an orientation program in order to provide personal care and demonstrate competency.

(a) The licensee must orient employees to the residents' daily routine and train employees to assist the residents in activities of daily living.

(b) Employees must be registered, certified or licensed as required by the Utah Department of Commerce.

(c) Registration, licenses and certificates must be current, filed in the personnel files, and presented to the licensee within 45-days of employment.

(6) The licensee is responsible to establish and implement written policies and procedures for a personnel health program to protect the health and safety of personnel and clients.

(a) Each employee must, upon hire, complete a health evaluation that includes a health inventory.

(b) The health inventory must document the employee's health history of the following:

(i) conditions that predispose the employee to acquiring or transmitting infectious diseases; and

(ii) conditions which may prevent the employee from performing certain assigned duties satisfactorily.

(c) Employee skin testing by the Mantoux Method or other FDA approved in-vitro serologic test and follow up for tuberculosis shall be done in accordance with R388-804, Special Measures for the Control of Tuberculosis.

(i) The licensee shall ensure that all employees are skin-tested for tuberculosis within two weeks of:

(A) initial hiring;

(B) suspected exposure to a person with active tuberculosis;

and

(C) development of symptoms of tuberculosis.

(ii) Skin testing shall be exempted for all employees with known positive reaction to skin tests.

(d) The licensee must report all infections and communicable diseases reportable by law to the local health department in accordance with R386-702-2.

**R432-300-13. Nursing Care.**

(1) Each Type N facility must provide nursing care services to meet the needs of the residents.

(2) A licensed nurse must be on-site working directly with residents on a daily basis in accordance with each resident's care plan and individual needs.

(3) Nursing practice must be in accordance with the Utah Nurse Practice Act[~~Section~~] 58-31b[~~-102(10)~~].

(4) Licensed nurses have the following responsibilities:

(a) direct the implementation of physician's orders;

(b) develop and implement an individualized care plan for each resident within seven calendar days of admission, and direct the delivery of nursing care, treatments, procedures, and other services to meet the needs of the residents;

(c) review and update at least every six months the health care needs of each resident admitted to the facility and develop resident care plans according to the resident's needs and the physician's orders;

(d) review each resident's medication regimen as needed and immediately after medication changes to ensure accuracy;

(e) ensure that nursing notes describe the care rendered including the resident's response;

(f) supervise staff to assure they perform restorative measures in their daily care of residents;

(g) teach and coordinate resident care and rehabilitative care to promote and maintain optimal physical and mental functioning of the resident; and

(h) plan and conduct documented orientation and in-service programs for staff.

(5) The licensed nurse must develop and maintain a current health services policy and procedure manual that is to be reviewed and updated by the licensed nurse at least annually.

(a) The manual must be accessible to all staff and be available for review by the Department.

(b) The policy and procedure manual must address the following:

(i) bathing;

(ii) positioning;

(iii) enema administration;

(iv) decubitus prevention and care;

(v) bed making;

(vi) isolation procedures;

(vii) blood sugar monitoring procedures;

(viii) telephone orders;

(ix) charting;

(x) rehabilitative nursing;

(xi) diets and feeding residents;

(xii) oral hygiene and denture care;

(xiii) medication administration;

(xiv) Alzheimer's/dementia care;

(xv) universal precautions and blood-borne pathogens; and

(xvi) housekeeping and cleaning procedures.

(6) Each resident's care plan must include measures to prevent and reduce incontinence.

(a) The licensed nurse must assess each resident to determine the resident's ability to participate in a bowel and bladder management program.

(b) An individualized plan for each incontinent resident shall begin within two weeks of the initial assessment.

(c) The licensed nurse must document a weekly evaluation of the resident's performance in the bowel/bladder management program.

(d) Fluid intake and output must be recorded for each resident and evaluated at least weekly when ordered by a physician or nurse.

(7) The licensee must ensure that staff are trained in rehabilitative nursing.

(a) The licensee must provide daily and document rehabilitative nursing services for residents who require such services.

(b) Rehabilitative nursing services shall include the following:

- (i) turning and positioning of residents as per physician's or nurse's orders;
- (ii) assisting residents to ambulate;
- (iii) improving resident's range of motion;
- (iv) restorative feeding;
- (v) bowel and bladder retraining;
- (vi) teaching residents self-care skills;
- (vii) teaching residents transferring skills; and
- (viii) taking measures to prevent secondary disabilities such as contractures and decubitus ulcers.

**R432-300-16. First Aid.**

(1) The licensee must ensure that at least one staff person is on duty at all times who has training in basic first aid, the Heimlich maneuver, certification in cardiopulmonary resuscitation, and emergency procedures to ensure that each resident receives prompt first aid as needed. [~~First aid training refers to any basic first aid course approved by the American Red Cross or Utah Emergency Medical Training Council.~~]

(2) The licensee must ensure that a first aid kit is available at a specified location in the facility.

(3) The licensee must ensure that a current edition of a basic first aid manual approved by the American Red Cross, the American Medical Association, or a state or federal health agency is available at a specified location in the facility.

(4) Each facility must have an OSHA approved clean-up kit for blood borne pathogens.

**R432-300-22. Penalties.**

Any person who violates any provision of this rule may be subject to the penalties enumerated in 26-21-11 and R432-3-[6] and be punished for violation of a class A misdemeanor as provided in Section 26-21-16.

**KEY: health care facilities**

**Date of Enactment or Last Substantive Amendment:** [~~October 1, 2011~~]**2017**

**Notice of Continuation:** September 15, 2016

**Authorizing, and Implemented or Interpreted Law:** 26-21-5; 26-21-16

**Transportation, Motor Carrier  
R909-2**

**Utah Size and Weight Rule**

**NOTICE OF PROPOSED RULE  
(Amendment)**

DAR FILE NO.: 42010

FILED: 08/11/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this amendment to Rule R909-2 is to meet the requirements of the Fixing America's Surface Transportation Act (FAST Act). The FAST Act was signed into law by the president on 12/15/2015, and included changes to truck size and weight provisions for commercial motor carriers. This amendment also meets the requirements of S.B. 183 from the 2017 General Session changing the height limitations for divisible permits to 14 feet 6 inches.

**SUMMARY OF THE RULE OR CHANGE:** Using the information in the FHWA Memorandum of 02/24/2016, the Motor Carrier Division has revised Rule R909-2 (and the definitions) to meet the federal requirements for Milk Products, Covered Heavy-Duty Tow and Recovery Vehicles, Emergency Vehicles, Natural Gas Vehicles, Commercial Delivery of Light- and Medium Duty Trailers, and Stinger-steered combinations. Section R909-2-16 is revised to allow divisible permits to be permitted up to 14 feet 6 inches.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 41-1a-1206 and Section 41-1a-231 and Section 72-7-402 and Section 72-7-404 and Section 72-7-406 and Section 72-7-407 and Section 72-9-301

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** No additional costs or savings to state budget is anticipated because the amendment only affects the Utah Department of Transportation (UDOT) and the motor carriers it regulates.

◆ **LOCAL GOVERNMENTS:** No additional costs or savings to local governments are anticipated because the amendment only affects UDOT and the motor carriers it regulates.

◆ **SMALL BUSINESSES:** No additional costs or savings to small businesses are anticipated because the amendment only affects UDOT and the motor carriers it regulates.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Customers will now be allowed to move a divisible load up to 14 feet 6 inches where they were previously limited to a 14-foot maximum height. Loads will no longer have to be altered to meet the lower height restriction. UDOT is unable to definitively identify cost savings to these customers without knowing the specific loads and efforts put forth to meet the previous requirements. Changes made due to the FAST Act will result in no additional costs or savings to small businesses, businesses, or local government entities because the amendment only affects UDOT and the motor carriers it regulates.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The FAST Act is designed to save money for vehicles with longer legal dimensions, and additional legal weight limitations. Affected persons will experience savings with the semi-trailer definition changed from 48 to 53 feet. Covered heavy-duty and recovery vehicles weight limitations do not apply. A Stinger-steered combination has increased from 75 feet to less than 80 feet. A trailer transporter now has an overall

length limitation of less than 82 feet on a towaway transporter combination. The legal weight limitation in Table 2 does not apply to emergency vehicles and natural gas vehicles. Emergency vehicles may exceed the weight limits up to 86,000 pounds, and a natural gas vehicle may exceed any vehicle weight limit up to 82,000 pounds. Compliance costs include the requirement to acquire a single trip permit for trailers in excess of 53 feet, and to acquire LCV authority to purchase semi-annual and annual permits. Haulers of milk products may now exceed the gross weight limit of 80,000 lbs, providing that they purchase an appropriate non-divisible permit. Customers will now be allowed to move a divisible load up to 14 feet 6 inches where they were previously limited to a 14-foot maximum height. Loads will no longer have to be altered to meet the lower height restriction. UDOT is unable to definitively identify cost savings to these customers without knowing the specific loads and efforts put forth to meet the previous requirements.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment to Rule R909-2 should not have a fiscal impact on businesses in general.

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

TRANSPORTATION  
MOTOR CARRIER  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY, UT 84119-5998  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at [cwnewman@utah.gov](mailto:cwnewman@utah.gov)  
◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at [jimpalmer@utah.gov](mailto:jimpalmer@utah.gov)  
◆ Linda Hull by phone at 801-965-4253, or by Internet E-mail at [lhull@utah.gov](mailto:lhull@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/02/2017

THIS RULE MAY BECOME EFFECTIVE ON: 10/09/2017

AUTHORIZED BY: Carlos Braceras, Executive Director

### **R909. Transportation, Motor Carrier.**

#### **R909-2. Utah Size and Weight Rule.**

##### **R909-2-1. Purpose and Applicability.**

The purpose of this rule is to protect and preserve Utah's highway infrastructure, enhance safety, and facilitate commerce. All commercial motor vehicle operators, and motor carriers engaged in the movement of over dimensional and overweight vehicles and loads must comply with permit conditions as specified in the Utah Size and

Weight rule. These conditions apply to all over dimensional vehicles and loads.

##### **R909-2-2. Authority.**

This rule is enacted under the authority of Sections 41-1a-231, 41-1a-1206, 72-1-201, 72-7-402, 72-7-404, 72-7-406, 72-7-407, 72-9-301, and 72-9-502.

##### **R909-2-3. Definitions.**

(1) "Appurtenance" as defined in CFR 23-658 and Section 72-7-402.

(2) "Articulated vehicle" consists of two or more vehicles that are connected by a joint that can pivot.

(3) "Bridge formula" is a bridge protection formula used by federal and state governments to regulate the amount of weight that can be put on each of a vehicle's axles, or the number of axles, and the distance between the axles or group of axles must be to legally carry a given weight.

(4) "Cargo or cargo carrying length" means the total length of a combination of trailers or load measured from the foremost of the first trailer or load to the rearmost of the last trailer or load including all coupling devices.

(5) "CSA" means the Compliance, Safety, Accountability program administered by the Federal Motor Carrier safety Administration, where they work together with state partners and industry to further reduce commercial motor vehicle crashes, fatalities, and injuries on our nation's highways.

(6) "Commercial vehicle" as defined in CFR 390.5 and Section 72-9-102.

(7) "Covered heavy-duty and recovery vehicle" means a vehicle that is transporting a disabled vehicle from the place where the vehicle became disabled to the nearest appropriate repair facility; and has a gross vehicle weight that is equal to or exceeds the gross vehicle weight of the disabled vehicle being transported.

([7]8) "Daylight" means one-half hour before sunrise and one-half hour after sunset.

([8]9) "Department" means the Utah Department of Transportation.

([9]10) "Divisible load" a load that can reasonably be dismantled or disassembled and does not meet the definition of non-divisible as defined in this section.

([10]11) "Division" means the Motor Carrier Division.

([11]12) "Drawbar" means the connection between two vehicles, measured from box to box or frame to frame or actual drawbar, one of which is towing or drawing the other on a highway.

([12]13) "Dromedary unit" is a truck-tractor capable of carrying a load independent of a trailer. Units manufactured prior to December 1, 1982 are exempt as a truck-trailer.

(14) "Emergency vehicle" means a vehicle designed to be used under emergency conditions: to transport personnel and equipment; and to support the suppression of fires and mitigation of other hazardous situations.

([13]15) "Fixed axle" means an axle that is not steerable, self-steering or retractable.

([14]16) "Flagger" is a person that is trained to direct traffic using signs or flags to aid the over-dimensional load or vehicles in the safe movement along the highway as designated on the over-dimensional load permit.

([45]17) "Full trailer" a vehicle without motive power designed for carrying property and for being drawn by a motor vehicle and constructed so that no part of its weight rests upon the towing vehicle.

([46]18) "High-risk motor carrier" is a carrier that is:

(a) above the threshold in the Crash or Fatigue or Unsafe BASIC that is greater than or equal to 85%, plus one other BASIC at or above the "all other" motor carrier threshold; or

(b) a motor carrier with any four or more BASIC's at or above the "all other" motor carrier threshold.

([47]19) "Highway" any public road, street, alley, lane, court, place, viaduct, tunnel, culvert, bridge, or structure laid out or erected for public use, or dedicated or abandoned to the public, or made public in an action for the partition of real property, including the entire area within the right-of-way.

([48]20) "Implement of husbandry" means every vehicle designed or adapted or used exclusively for an agricultural operation and only incidentally operated or moved upon the highways.

([49]21) "Incidental" means transportation that occurs occasionally or by chance, but does not exceed a distance of 20 miles.

([20]22) "Interstate system" means any highway designated as an interstate or freeway. For the purpose of this rule: I-15, I-215, I-80, I-70, US 89 between I-84 and I-15 and SR 201 between I-15 and I-80 will be considered interstate.

([21]23) "Laden" means carrying a load.

([22]24) "Longer combination vehicle" or an LCV is a combination of truck, truck tractor, semi-trailer and trailers, which exceeds legal dimensions and operates on highways by permit for transporting divisible loads.

([23]25) "Longer combination vehicle authority" means an authorization given to a specific company to exceed standard permitted length allowances for vehicle configuration on pre-approved routes.

([24]26) "Manufactured home" a transportable factory built housing unit constructed on or after June 15, 1976, in one or more sections, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

([25]27) "Manufactured mobile home" means a transportable factory built housing unit built prior to June 15, 1976, in accordance with a state mobile home code, which existed prior to the Federal Manufactured Housing and Safety Standards Act.

([26]28) "Motor carrier" as defined in Section 72-9-102.

([27]29) "MVR" means motor vehicle record.

([28]30) "MUTCD" means Manual on Uniform Traffic Control Devices.

([29]31) "Multi-trip" means two or more daily or a minimum of 10 weekly trips in the proximity of a port-of-entry.

(32) "Natural gas vehicle" means the vehicle's engine is fueled primarily by natural gas.

([30]33) "Non-divisible" any load or vehicle exceeding applicable length, width, or height or weight limits which, if separated into smaller loads or vehicles would:

(a) compromise the intended use of the load or vehicle;

(b) destroy the value of the load or vehicle; or

(c) require more than eight work hours to dismantle using appropriate equipment.

([31]34) "Out-of-service" is a condition where a motor vehicle, because of mechanical condition or loading, is considered

imminently hazardous and likely to cause an accident or breakdown; or where a driver violation renders a commercial vehicle operator unqualified to drive.

([32]35) "Pole trailer" every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and is ordinarily used for transporting long or irregular shaped loads such as poles, pipes, or structural members generally capable of sustaining themselves as beams between the supporting connections.

([33]36) "Port-of-entry by-pass permit" allows a motor carrier a temporary permit that would allow by-pass of a designated port of entry.

([34]37) "Quad axle group" means a group of four consecutive fixed axles.

([35]38) "Recreational vehicle" is a vehicle or vehicles that are driven solely as family or personal conveyances for non-commercial purposes.

([36]39) "Retractable axle" is an axle which can be mechanically raised and lowered by the driver of the vehicle, but which may not have its weight-bearing capacity mechanically regulated.

([37]40) "Rocky mountain doubles" a tractor and two trailers, consisting of a long and a short trailer.

([38]41) "Saddle mount" means a truck or tractor towing other vehicles with the front axle of each towed vehicle mounted on top of the frame of the proceeding vehicle or vehicles.

([39]42) "Secondary highway" is all other routes not designated as interstate or freeway. Two-lane, two-way highways are synonymous with secondary highways.

([40]43) "Semi trailer" means every vehicle without motive power designed for carrying property and for being drawn by a motor vehicle and constructed so that some part of its weight and its load rests on or is carried by another vehicle.

([41]44) "Special event" means the movement of an over-dimensional load or vehicle.

([42]45) "Special mobile equipment" or an SME means a vehicle or vehicles exempt from registration that is not designed or used primarily for the transportation of persons or property; is not designed to operate in traffic; and is only incidentally operated or moved over the highways.

([43]46) "Special truck equipment" or an STE means a vehicle by nature of design that cannot meet the non-divisible weight allowances such as cement pump trucks, well boring trucks, or cranes with a lift capacity of five or more tons.

([44]47) "Spread axle" is two single axles that exceed 96 inches apart.

([45]48) "Tandem axle" means two axles spaced not less than 40 inches nor more than 96 inches apart and having at least one common point of weight suspension.

(49) "Towaway trailer transporter combination" means a combination of vehicles consisting of a trailer transporter towing unit and 2 trailers or semitrailers.

(50) "Trailer transporter towing unit" means a power unit that is not used to carry property when operating in a towaway trailer transporter combination.

([46]51) "Tridem axle" means any three consecutive axles whose extreme centers are not more than 144 inches apart, and are individually attached to or articulated from, or both, a common

attachment to the vehicle including a connecting mechanism designed to equalize the load between axles.

(~~47~~52) "Triple trailer" means a tractor and three trailers of approximately equal length.

(~~48~~53) "Truck" means any self-propelled motor vehicle, except a truck tractor, designed or used for the transportation of property, laden or un-laden.

(~~49~~54) "Truck tractor" means a motor vehicle designed and used primarily for drawing other vehicles and not constructed to carry a load other than a part of the weight of the vehicle and load that is drawn.

(~~50~~55) "Trunnion axle" an axle configuration with two individual axles mounted in the same transverse plane, with four tires on each axle.

(~~51~~56) "Trunnion axle group" two or more consecutive trunnion axles that are attached to the vehicle by a weight equalizing suspension system and whose consecutive centers are more than 40 inches, but not more than 96 inches apart.

(~~52~~57) "Turnpike doubles" means a tractor and two trailers of equal length.

(~~53~~58) "UCR" means Unified Carrier registration.

(~~54~~59) "Un-laden" means a vehicle is not carrying a load.

(~~55~~60) "Variable load suspension axle" or VLS is an axle that can be adjusted mechanically to various weight bearing capacities and can also be mechanically raised and lowered.

(~~56~~61) "Vehicle" every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices used exclusively upon rails or tracks.

**R909-2-4. Legal Size Vehicle Dimensions.**

(1) Maximum legal vehicle dimensions, laden and un-laden, that may be operated without special permits on Utah Highways:

- (a) height: 14 feet
- (b) width: 8 feet 6 inches; and
- (c) length: See Table 1 Legal Size Vehicle Dimensions

TABLE 1

Legal Size Vehicle Dimensions

Vehicle	Maximum Length	Comments
Single motor Vehicle	45 feet	Measured from bumper to bumper.
Semi-Trailer	<del>[48]53</del> feet	A trailer may not exceed <del>[48]53</del> feet.
<del>[Semi-trailer</del>	<del>53 feet</del>	<del>There is no overall length limitation on a tractor and semi-trailer combination when the semi-trailer length is 53 feet or less.]</del>
Double trailer combinations	61 feet	Measured from the front of the first trailer to the rear of the second trailer, excluding appurtenances. There is no overall length limitation on a truck tractor and double trailer combination when the trailers coupled together measure 61 feet or less.

Stinger-steered combinations are measured from bumper to bumper.	<del>[75-feet]</del> Less than 80 feet	Stinger-steered Transporters may have <del>[3-feet-of-front and 4-feet-of-rear-overhang, but may not exceed 82-feet-overall-length]</del> front overhang of less than 4 feet and a rear overhang of less than 6 feet, with a maximum vehicle length limitation of less than 80 feet (excluding overhangs).
Saddle Mount	97 feet	This will allow a maximum of three saddle mount vehicles, one power unit and one full mount.
Truck trailer combination	65 feet	Measured from bumper to bumper.
Dromedary unit	65 feet	Truck tractor, unloaded box deck and trailer. A dromedary unit is considered a truck trailer configuration whether laden or un-laden.
	75 feet	Dromedary units transporting Class 1 Explosives or munitions related Security materials, as specified by the Department of Defense, are allowed up to 75 feet of overall length on the interstates. US highways and reasonable access routes without requiring a permit. Reasonable access means to the Interstate or US highway system.
All other combinations including recreational vehicles	65 feet	Measured from bumper to bumper.
Overhang	3 feet front 6 feet rear	Overhang may not carry any load extending more than 3 feet beyond the front of the power unit or more than 6 feet beyond the rear of the bed or body of the vehicle.
Drawbar	15 feet	The drawbar or other connection between any two vehicles, one of which is towing or drawing the other on a highway, may not exceed 15 feet in length from one vehicle to the other, measured from box to box or frame to frame, except in the case of a connection between any two vehicles transporting poles, pipe, machinery, or structural material that cannot be dismembered when transported upon a pole trailer.
Commercial delivery of light and medium duty trailers	Less than 82 feet	Consisting of a trailer transporter towing unit and 2 trailers or semitrailers with a total weight not to exceed 26,000 lbs; and in which the trailers or semitrailers carry no property and constitute inventory property of a manufacturer, distributor, or dealer of such trailers or semitrailers, may have an overall length limitation of less than 82 feet on a towaway trailer transporter combination.



**R909-2-5. Legal Weight Limitations.**

(1) The maximum gross and axle weight limitations are noted in Table 2 and may not be operated in excess of:

TABLE 2

Maximum Gross and Axle Weight Limitations

Single Wheel	10,500 pounds
Single Axle	20,000 pounds
Tandem Axle	34,000 pounds
Tridem Axle	must comply with bridge formula
Gross Vehicle Weight	80,000 pounds

(2) An overweight permit must be obtained to authorize any exception to the maximum weight limitations listed in Table 2.

(3) The weight limitation in Table 2 does not apply to a covered heavy-duty tow and recovery vehicle.

(4) Emergency vehicles may exceed the weight limits (up to a maximum gross vehicle weight of 86,000 pounds) of less than - 24,000 pounds on a single steering axle; 33,500 pounds on a single drive axle; 62,000 pounds on a tandem axle; or 52,000 pounds on a tandem rear drive steer axle.

(5) A natural gas vehicle may exceed any vehicle weight limit (up to a maximum gross vehicle weight of 82,000 pounds) by any amount that is equal to the difference between: the weight of the vehicle attributable to the natural gas tank and fueling system carried by that vehicle; and the weight of a comparable diesel tank and fueling system.

**R909-2-6. Tire Load Provisions[~~for Single Tires~~].**

(1) The use of narrow single tires, that are less than 14 inches wide, on any combination vehicle requiring an overweight or oversize permit shall not be allowed on single axles, except for steering axles, including self-steering VLS, or retractable axles, or wide base tires, that are 14 inches or greater.

(2) All axles having a weight in excess of 10,000 pounds shall be equipped with four tires per axles, or wide base single tires.

(3) In circumstances where weight limitations are based on tire width, the manufacturer's size, as indicated on the sidewall will be used to determine maximum tire width:

(a) for non-permitted or legal vehicles, no tire shall exceed 600 pounds per inch of tire width as indicated on the sidewall;

(b) tire loading on vehicles requiring an oversize or overweight permit shall not exceed 500 pounds per inch of tire width for tires 11 inches wide or greater;

(c) tires less than 11 inches wide shall not exceed 450 pounds per inch of tire width; and

(d) except as provided in R909-2-6, single axle loading shall not exceed 20,000 pounds, and tandem axle loading shall not exceed 34,000 pounds.

(4) Except for steering axles, self-steering VLS and retractable axles, or wide based tires, that are 14 inches wide or greater as indicated by the manufacturer's sidewall rating, all axles weighing more than 10,000 pounds shall have at least four tires per axle.

(a) For example: A tridem axle group that is designed for equalized weight distribution, equipped with single tires less than 14 inches in width, will be allowed 30,000 pounds. A tandem axle group that is designed for equalized weight distribution, equipped with single

tires less than 14 inches in width will be allowed 20,000 pounds. All axles in the group must be duals or super singles to be allowed maximum weight.

(5) Dual or super single tires, that are 14 inches or greater, are required on all trailer axles.

**R909-2-7. Variable Load Axles.**

(1) Vehicles with variable load axles are limited as follows:

(a) no more than three fixed axles shall be allowed in any group;

(b) retractable or variable load suspension axles installed after January 1990 shall be self-steering on power units or when augmenting a tridem group on trailers;

(i) Non-divisible loads may be exempt from these restrictions upon written approval from the division.

(c) no axle in a group with a retractable or VLS axle shall exceed legal or bridge formula weight requirements, or the manufacturer's tire rating; and

(d) Controls for raising or lowering retractable or VLS axles may be located in the cab of the power unit. The pressure regulator valve shall be positioned outside of the cab and be inaccessible from the driver's compartment.

**R909-2-8. General Oversize or Overweight Provisions.**

(1) Except when entering on Northbound I-15 at the St. George Port of Entry, Westbound I-80 at the Echo Port of Entry, and Eastbound I-80 at the Wendover Port of Entry, the appropriate permit must be obtained prior to operating within the State of Utah.

(2) Each oversize or overweight permit shall be carried in the vehicle or combination vehicles.

(a) The permit may be in paper or electronic format.

(3) The conditions that must be met to obtain an oversize or overweight permit are:

(a) the motor carrier complies with the financial responsibility obligations;

(b) the vehicle or vehicles must be properly registered;

(c) the driver or drivers are properly licensed with appropriate endorsements;

(d) the motor carrier complies with the Federal Motor Carrier Safety Regulations;

(e) the motor carrier complies with the Hazardous Material Regulations; and

(f) the motor carrier complies with the Unified Carrier Registration or UCR as required.

(4) Exception. Length limitations do not apply to combinations of vehicles operated at night by a public utility when required for emergency repair of public service facilities or properties, or when operated with an oversize or overweight permit.

(5) Liability of permittee. The applicant or permittee, as a condition for obtaining an oversize permit, shall assume all responsibility for crashes, including injury to any persons or damage to public or private property caused by their operations.

(6) Indemnity clause. The applicant or permittee, agrees to indemnify and hold harmless the department from any and all claims resulting directly or indirectly from the operation and transportation of vehicles or combination of vehicles operating under an oversize or overweight permit.

**R909-2-9. Transfer or Replacement of Permits.**

(1) Division personnel may transfer permits from one vehicle to another for a fee under the following conditions:

- (a) annual and semi-annual permits may be transferred to another unit within the same company;
- (b) the customer has sold or purchased a vehicle; or
- (c) lease changes from one company to another by providing evidence of permit ownership.

(2) A transfer permit will be issued with the same expiration date as the original permit.

**R909-2-10. Permit Revocation, Suspension and Confiscation.**

(1) Violations of any permit that may result in the revocation, suspension or confiscation of the permit include, but are not limited to:

- (a) speeding in excess of the posted speed limit or the speed indicated on the permit;
- (b) lane travel;
- (c) weather;
- (d) load securement;
- (e) violations of the Federal Motor Carrier Safety Regulations; and
- (f) violations of the Hazardous Material Regulations.

(2) Before a vehicle can be moved, it must be made legal, properly permitted and all of the out-of-service violations corrected.

(3) Patterns of non-compliance at a carrier level may result in the following actions:

- (a) civil penalties;
- (b) suspension or revocation of permit privileges; or
- (c) an order to cease and desist operations.

**R909-2-11. Weather Travel Restrictions.**

(1) No carrier shall operate a ~~[permitted vehicle or vehicles]~~longer combination vehicle (LCV), a tractor trailer combination in excess of 81 feet [cargo or cargo carrying length] or a truck and two-trailer combination in excess of 92 feet, when the following conditions exist:

- (a) wind in excess of 45 m.p.h.;
- (b) any accumulation of snow and ice on the roadway; or
- (c) visibility less than 1,000 feet.

~~(2) No carrier shall operate an oversize vehicle or load in excess of 10 feet wide, 105 feet long, 10 feet front or rear overhang when the following conditions exist:~~

- ~~(a) any accumulation of snow and ice on the roadway; or~~
- ~~(b) visibility less than 1,000 feet.~~

**R909-2-12. Curfew Congestion Restrictions.**

(1) Unless otherwise authorized, travel is prohibited for loads or vehicles in excess of 10 feet wide, 105 feet overall length, and 14 feet in height, Monday thru Friday between 6 a.m. and 9 a.m. and between 3:30 p.m. and 6 p.m. mountain time on the following highways:

- (a) all highways south of Perry Willard Interchange, I-15, Exit #357;
- (b) all highways in Weber, Davis, and Salt Lake Counties;
- (c) all highways in Utah County north of I-15, Exit #261;
- (d) SR 68, North of mile post 16 in Utah County;
- (e) I-80 East side of Salt Lake County mile post 139 to mile post 101 on the West side of Salt Lake County; and

(f) I-84 west of mile post 91.

(2) The division may authorize exceptions to the curfew congestion restrictions based on mitigating circumstances.

**R909-2-13. Holiday Travel Restrictions.**

(1) Travel is prohibited for loads in excess of 10 feet wide, 105 feet overall length, and 14 feet in height during the following holidays:

- (a) Christmas Day;
- (b) New Year's Day;
- (c) Memorial Day;
- (d) Independence Day;
- (e) Labor Day; and
- (f) Thanksgiving Day.

(2) Monday holiday observance:

~~(a) [when a holiday is observed on a Monday, travel is prohibited from 2 p.m. on Friday until daylight on the Tuesday following the recognized holiday.~~

~~(3) Tuesday, Wednesday and Thursday holiday observance:~~

~~(a) when the holiday is observed on a Tuesday, Wednesday, or Thursday, travel is prohibited from 2 p.m. on the day before the holiday until daylight the day after the holiday.~~

~~(4) Friday holiday observance:~~

~~(a) when the holiday is observed on a Friday, travel is prohibited from 2 p.m. on Thursday until daylight on Monday following the recognized holiday.]~~Holiday restrictions to begin at 2:00 p.m. the day before the holiday and extend to sunrise the day after the holiday.

(3) Monday holidays and Monday observed holiday restrictions begin at 2:00 p.m. through midnight on the Friday prior to the holiday. Normal travel may resume from sunrise on Saturday through Sunday at midnight. Monday holiday restriction continues at 12:01 a.m. on Monday and ends Tuesday at sunrise.

~~(5)4~~ The division may authorize~~[d]~~ exceptions to the holiday travel restriction based on mitigating circumstances.

~~(6)5~~ The division may prohibit movement of oversize loads during days of anticipated high traffic volume such as those that occur during hunting seasons, other holidays, weather conditions, or special events.

**R909-2-14. Night Time Restrictions.**

(1) Loads exceeding the following dimensions are restricted to daylight hours except as provided in R909-2-15:

- (a) 14 feet high;
- (b) 10 feet wide;
- (c) 105 feet in length; or
- (d) overhang in excess of 10 feet.

**R909-2-15. Night Time Travel Provisions.**

(1) The movement of oversize loads at night will be allowed under the following conditions:

- (a) loads may not exceed 12 feet wide on secondary highways, 14 feet wide on interstates, or 14 feet high on all roadways;
- (b) loads exceeding 10 feet wide, 105 feet overall length, or 10 feet front or rear overhang are required to have one certified pilot escort on interstate highways and two on all secondary highways;
- (i) Exception. A tow truck towing vehicles with a total length of 120 feet or 10 feet wide may travel during hours of darkness and does not require a pilot escort.

(c) loads exceeding 92 feet overall length are required to have proper lighting every 25 feet, with amber lights to the front and sides of the load marking extreme width, and red to the rear; and

(d) night time travel authorization does not supersede adverse weather conditions.

(2) The division may authorize exceptions to the night time travel provisions based on mitigating circumstances.

**R909-2-16. Oversize Divisible Load Provisions.**

(1) An oversize permit may be issued for moving a combination of vehicles and loads exceeding the legal limits under the following conditions:

(a) the height of the combination or load does not exceed 14 feet 6 inches;

(b) the width of the combination or load does not exceed 8 feet 6 inches.

(c) in combinations, a longer trailer shall precede the shorter trailer;

(d) in multiple trailer combinations, a lighter trailer may not be placed in front of a heavier trailer when the weight difference is greater than 4000 pounds; and

(e) drawbars exceeding 15 feet in length shall be marked with retro-reflective tape the entire length of the drawbar on both the left and right side of the drawbar.

(i) The drawbar shall display an amber light on both the right and left side of the drawbar located near the center of the drawbar.

**R909-2-17. Oversize Non-Divisible Load Provisions.**

(1) Permitted vehicles must comply with the following conditions:

(a) all vehicles and loads shall be reduced to the minimum practical dimensions;

(b) semi-annual and annual permits may be issued for dimensions up to, but not exceeding:

(i) 14 feet in height,

(ii) 14 feet 6 inches in width, and

(iii) 105 feet in length.

(2) Exceptions may be granted by the division for annual permitted loads in excess of this section.

(3) Bulldozer blades, loader buckets or similar equipment exceeding 16 feet in width shall be removed for transport and may be hauled on the same load with the machinery after removal.

(4) Loads exceeding 17 feet in width on two-lane routes, 20 feet in width on interstates, or 17 feet 6 inches in height on all public highways may be allowed under the following terms and conditions:

(a) the permittee shall notify the division by submitting a permit application online, of the dimensions of the oversize vehicle or load and the proposed route to be used;

(b) the division will notify the department region or district permit official affected by the proposed route, and will obtain authorization for the move;

(c) permittee must request authorization through the online system at least 48 hours in advance of the movement;

(d) permit is not valid until the permittee has assumed the cost and responsibility to obtain utility company authorizations and clearances; and

(e) the permittee will assume all costs when a certified police escort or escorts are required.

(5) Tow trucks may purchase a semi-annual or annual non-divisible oversize permit up to 10 feet wide and 120 feet in length.

(a) Loads exceeding 10 feet wide and 120 feet long shall purchase a single trip permit.

**R909-2-18. Oversize Non-Divisible Load Provisions Requiring Pilot Escort Vehicles.**

(1) One pilot vehicle is required for vehicles or loads, which exceed the following dimensional conditions:

(a) 12 feet in width on secondary highways for non-interstate, and 14 feet in width on divided highways for interstates;

(b) 105 feet in length on secondary highways and 120 feet in length on divided highways; and

(c) overhangs in excess of 20 feet shall have a pilot escort vehicle positioned to the front for front overhangs and to the rear for rear overhangs.

(2) Two pilot escort vehicles are required for vehicles or loads which exceed the following dimensional conditions:

(a) 14 feet in width on secondary highways;

(b) 16 feet in width on divided highways;

(i) mobile and manufactured homes with eaves greater than 12 inches shall be measured for overall width including eaves and pilot escort vehicles assigned as specified; or

(c) 120 feet in length on secondary highways;

(d) 16 feet in height on all highways; or

(e) when otherwise required by the division.

**R909-2-19. Oversize Non-Divisible Load Provisions Requiring Police Escorts.**

(1) Police escorts are required for vehicles with loads which exceed:

(a) 17 feet wide or 17 feet 6 inches high on secondary highways; or

(b) 20 feet wide or 17 feet 6 inches high on all highways; or

(c) All loads in excess of 175 feet in length must have a minimum of one police escort;

(d) All loads in excess of 200 feet in length will require a minimum of two police escorts.

(2) The division may require police escorts based on extenuating circumstances.

**R909-2-20. Oversize Non-Divisible Load Lighting, Signing and Flag Requirements.**

(1) Oversize non-divisible load lighting:

(a) warning lights required when headlights are necessary;

(b) front overhang in excess of three feet shall be marked with a steady, amber marker light and red flag;

(c) rear overhang exceeding four feet shall be marked with red clearance lights for night travel;

(d) vehicles with front or rear overhang exceeding 20 feet from the front or rear bumper of a vehicle, or from the center of the closest axle in the absence of a bumper, a rotating or flashing beacon visible from a minimum of 500 feet, and shall be displayed at a minimum height of four feet above ground;

(e) tow vehicle headlights shall be operated on low beam, day or night, as an additional warning to traffic; and

(f) night time travel, when authorized by the division may be permitted with marker lights indicating extreme width using amber lights front and center, and red lights to the rear.

(2) Oversize non-divisible load sign requirements. Non-divisible oversize loads exceeding 10 feet in width, 14 feet in height and 105 feet in length shall display an "OVERSIZE LOAD" sign, to warn the motoring public that extra-large vehicles are in operation. Signs must:

- (a) be 7 feet by 18 inches;
  - (b) have a yellow background with 10 inch high black letters that are painted with 1 5/8 inches wide stroke to read: "OVERSIZE LOAD";
  - (c) be impervious to moisture;
  - (d) have front signs mounted on front bumper or on top of vehicle cab with letters presented toward the front of the vehicle;
  - (e) have rear signs positioned at the rear most part of the Vehicle or load as feasible, ensuring in all cases that the load does not obstruct the view of the sign;
  - (f) if possible, have the bottom edge of the sign be positioned not more than 5 feet above the road surface;
  - (g) be mounted with adequate supporting anchorage, constructed, maintained, and displayed so that they are clearly legible at all times;
  - (h) be covered, removed or placed face down when the vehicle is not engaged in an oversize movement; and
  - (i) oversize loads signs are not required on LCVs.
- (3) Oversize non-divisible load flag requirements. Red or orange flags must be affixed on all extremities when:
- (a) vehicle or load exceeds 10 feet in width;
  - (b) loads on a vehicle exceeding three feet to the front or four feet to the rear of the bed or body while in operation;
  - (c) flags shall be completely clean and not torn, faded, or worn out and shall be fastened so as to wave freely; and
  - (d) over dimensional flagging is not required on LCVs.

#### **R909-2-21. Convoys.**

(1) The movement of more than one permitted vehicle is allowed provided prior authorization is obtained from the division with the following conditions:

- (a) the number of permitted vehicles in the convoy shall not exceed two;
- (b) loads may not exceed 12 feet wide or 150 feet overall length;
- (c) distance between vehicles shall not be less than 500 feet or more than 700 feet;
- (d) distance between convoys shall be a minimum of one mile;
- (e) all convoys shall have a certified pilot escort in the front and rear with proper signs;
- (f) police escorts or department personnel may be required;
- (g) convoys must meet all lighting requirements;
- (h) convoys are restricted to freeway and interstate systems; and
- (i) approval for convoys or night time travel may be obtained by contacting the division, and exceptions may be granted by the division on a case by case basis.

#### **R909-2-22. Trailers in excess of [48]53 to 57 Feet in Length.**

~~[(1) Semi-trailers exceeding 48 feet, and up to 53 feet in length are not required to purchase oversize permits when operating on or within one mile of state designated routes and US highways.~~

~~—————(2) Vehicles operating more than one mile from state designated routes and US highways will require an oversize permit available on a single trip, semiannual or annual basis.~~

~~—————(3) Trailers exceeding 53 feet but not to exceed 57 feet may acquire a single trip, semiannual or annual permit.[~~

~~—————(a)] Trailers in excess of 53 feet must have LCV authority to purchase semi-annual and annual permits.~~

#### **R909-2-23. Longer Combination Vehicles.**

(1) Motor Carriers operating longer combination vehicles or LCV's must apply and be approved to operate on designated routes on Utah's interstate system.

(2) Authorized motor carriers may operate interstate LCV's with a cargo or cargo carrying length as follows:

- (a) a tractor trailer or tractor trailer combination in excess of 81 feet not to exceed 95 feet cargo or cargo carrying length; or
- (b) a truck and two-trailer combination in excess of 92 feet not to exceed 95 feet in length, 14 feet in height, or 8 feet 6 inches in width.

(3) LCV conditions for operation:

- (a) in combinations, a longer trailer shall precede the shorter trailer;
  - (b) non-divisible dimensions with a width greater than 8 feet 6 inches or height greater than 14 feet, may not be transported on LCV's; and
  - (c) acceptable travel conditions exist in accordance with hazardous conditions for loads in excess of 81 feet cargo or cargo carrying length.
- (4) A truck and single trailer exceeding legal length may be permitted up to 88 feet, and requires LCV authority exceeding 88 feet up to 92 feet.
- (5) A dromedary unit when exceeding legal length may be permitted up to 88 feet.
- (6) LCV's and double trailers exceeding 81 feet cargo carrying length may not operate on secondary highways other than those pre-approved by the division.

#### **R909-2-24. Overweight Divisible Load Provisions.**

(1) An overweight divisible load permit may be issued for moving a combination of vehicles and loads exceeding the legal limits under the following conditions:

- (a) The vehicle or combination of vehicles is properly registered for 78,001 to 80,000 pounds;
- (b) The width of the vehicle does not exceed 8 feet 6 inches wide or 14 feet high;
- (c) All axles weighing more than 10,000 pounds are required to have at least four tires per axle except for steering axles, self-steering variable load suspension or retractable axles, or wide base single tires, that are 14 inches or greater as indicated by the manufacturer's sidewall rating.

(2) Overweight divisible load options are:

- (a) dual tires on all axles;
- (b) super wide single tires that are 14 inches wide or greater;
- (c) not to exceed 10,000 pounds per axle;
- (d) the axle, groups of axles, and GVW do not exceed the bridge formula  $W = 500(LN/(N-1) + 12N+36)$ ; and
- (e) all axles in the group must be duals or super singles to be allowed maximum authorized weight.

(3) The combination unit will conform to the bridge formula and the legal axle and gross vehicle weight limits.

(4) A divisible load permit may not be used to transport a non-divisible load.

(a) Exception. An overweight non-divisible load may operate with a divisible overweight permit provided the axle, gross and bridge limitations do not exceed those specified on the permit.

**R909-2-25. Overweight Non-Divisible Load Provisions.**

(1) Permitted vehicles must comply with the following conditions:

(a) all vehicles and loads shall be reduced to the minimum practical dimensions; and

(b) the vehicle or combination of vehicles is properly registered for 78,001 to 80,000 pounds or the total gross weight of the vehicle.

(2) Actual weight must comply with the bridge table formula  $\sim 1.47 \times 500 (LN/N-1 + 12N + 36)$ .

(3) A permit for a non-divisible load may not be used to transport a divisible load.

(4) Vehicles with a gross vehicle weight of less than 125,000 may be permitted on a single trip, semiannual trip, or annual trip basis as described in Table 3:

TABLE 3

Single Trip, Semi-Annual Permits allowed up to:

Single Axle	29,000 pounds
Tandem Axle	50,000 pounds
Tridem Axle	61,750 pounds
Trunnion Axle	60,000 pounds
Gross Weight	125,000 pounds

(5) Tow-trucks may purchase a semi-annual, or annual non-divisible overweight permit as specified in Table 3.

(a) Tow-truck loads exceeding the maximum limits in Table 3 shall purchase a single trip permit.

(6) Vehicles transporting milk products may exceed the gross weight limit of 80,000 pounds or the maximum weight allowed by the Federal Bridge Formula. This requires an appropriate non-divisible permit issued by the Department.

(a) Milk products being carried using multiple trailers will be required to abide by divisible requirements and do not get the non-divisible exception.

**R909-2-26. Overweight Non-Divisible Loads Exceeding 125,000 Pounds Gross or Axle Weights.**

(1) Loads exceeding 125,000 pounds gross, or axle weights in R909-2-24, may only purchase single trip permits.

(2) Axle, bridge, and gross weight allowances will be determined based on the non-divisible bridge table formula  $\sim 1.47 \times 500 (LN/N-1 + 12N + 36)$  or in accordance with the bridge table.

(3) 9 feet wide axles are allowed 7.5% more weight than 9 feet wide axles.

(4) 10 feet wide axles are allowed 15% more weight than 8 feet wide axles.

(5) When using an axle equipped with eight tires, rather than four, add 10% to the weight authorized for an 8 foot wide axle group.

(6) All tires shall be in compliance with the manufacturers tire load rating as indicated on the tire side wall.

(7) All STE operations must have an STE profile sheet when the axle limitations specified in Table 3 or bridge table are exceeded.

**R909-2-27. Mobile and Manufactured Homes.**

(1) Mobile and manufactured homes exceeding 14 feet 6 inches to 16 feet in wall-to-wall width, transported on their own running gear, may be issued a single trip permit under the following conditions:

(a) all trailer axles shall be equipped with operational brakes; and

(b) axle and suspensions shall not exceed manufacturer's capacity rating.

(2) Paneling requirements of the open sides of a mobile manufactured home:

(a) a rigid material of 0.5 millimeter plastic sheathing backed by a rigid grillwork not exceeding squares of four feet to prevent billowing must fully enclose the open sides of the units in transit.

(3) Rear mounted stop and turn signal lights shall be a minimum 6 inches in diameter with a type 35 red reflector lens.

(a) The lens shall be mounted not more than 18 inches from the outer edge of the unit and not less than 15 inches or more than 8 feet above the road surface.

(b) Houses, buildings, and structures not manufactured or built to be transported, will not require tail, brake, or signal lights mounted on the structures as certified pilot and police escort vehicles provide sufficient warning of the intent to brake, turn or stop.

(4) Two safety chains shall be used, one each on the right and left sides but separate from the coupling mechanism connecting the tow vehicle and the mobile and manufactured home while in transit.

(5) Tow Vehicles. Tow vehicles shall comply with the following minimum requirements:

(a) conventional or cab-forward configuration shall have a minimum wheelbase of 120 inches;

(b) cab-over engine tow vehicles shall have a minimum wheelbase of 89 inches;

(c) have a minimum of four rear tires; and

(d) mirrors on each side of the tow vehicle shall be arranged so that the driver can see the entire length of both sides of the towed unit.

(6) Trailer brake requirements:

(a) mobile manufactured homes in excess of 8 feet 6 inches wide, up to 12 feet wide and equipped with one axle, must have operational brakes; and

(b) a minimum of two axles equipped with operative brake assemblies is required on each mobile manufactured home unit in excess of 12 feet wide.

**R909-2-28. Pilot Escort Requirements and Certification Program.**

(1) Pilot escort driver requirements. Individuals who operate a pilot escort vehicle must meet the following requirements:

(a) must be a minimum of 18 years of age;

(b) must possess a valid driver's license for the state jurisdiction in which the driver resides;

(c) must obtain a certification card by an authorized qualified certification program as outlined in this section, and shall have it in their possession at all times while in pilot escort operations;

(d) within 30 days pilot escort drivers must provide a current Motor Vehicle Record (MVR) certification to the qualified certification program at the time of the course;

(e) no passengers under 16 years of age are allowed in pilot escort vehicles during movement of oversize loads;

(f) a pilot escort driver may not perform as a tillerman while performing pilot escort operations; and

(g) a pilot escort driver must meet the requirements of 49 CFR 391.11 if using a vehicle for escort operations in excess of 10,000 lbs.

(2) Driver certification process.

(a) Drivers domiciled in Utah must complete a Utah pilot escort certification course authorized by the division. A list of authorized instructors may be obtained by contacting (801) 965-4892.

(b) Pilot escort drivers domiciled outside of Utah may operate as a certified pilot escort driver with another state's certification credential, provided the course meets the minimum requirements outlined in the Pilot Escort Training Manual - Best Practices Guidelines as endorsed by the Specialized Carriers and Rigging Association, Federal Highway Administration, and the Commercial Vehicle Safety Alliance.

(c) The department may enter into a reciprocal agreement with other states provided they can demonstrate that course materials are comprehensive and meet minimum requirements outlined by the department.

(i) A current listing of reciprocity states may be obtained by contacting the division at 801-965-4892.

(d) The pilot escort driver's initial certification expires four years from the date issued, and it is the responsibility of the driver to maintain certification.

(i) One additional four-year certification may be obtained through a mail-in or on-line re-certification process provided by a qualified pilot escort training entity.

(3) Suspensions and revocations.

(a) Pilot escort drivers may have their certification denied, suspended, or revoked by the division if it is determined that a disqualifying offense has occurred within the previous four years.

(b) Drivers convicted of serious traffic violations such as excessive speed, reckless driving and driving maneuvers reserved for emergency vehicles, driving under the influence of alcohol or controlled substances may have their certification denied, suspended, or revoked by the division.

(c) The division may suspend for first offenses up to one year. Subsequent offenses may result in permanent revocation of driver certification.

(d) When a driver is denied pilot escort driving privileges for reasons other than the conditions set forth in this rule, the individual may file an appeal.

(i) The appeals shall be handled by a steering committee created by the division.

(e) The steering committee shall have the powers granted to the deputy director in R907-1-3 for appeals from other division administrative actions. This committee's decision, if adopted by the director of the division, will be considered a final agency order under Administrative Procedures in R907-1.

(4) Pilot escort vehicle standards.

(a) Pilot escort vehicles may be either a passenger vehicle or a two-axle truck with a 95 inch minimum wheelbase and a maximum gross vehicle weight of 12,000 lbs and properly registered and licensed as required under Sections 41-1a-201 and 41-1a-401.

(b) Equipment shall not reduce visibility or mobility of pilot escort vehicle while in operation.

(c) Trailers may not be towed at any time while in pilot escort operations.

(d) Pilot escort vehicles shall be equipped with a two-way radio capable of transmitting and receiving voice messages over a minimum distance of one-half mile.

(i) Radio communications must be compatible with accompanying pilot escort vehicles, utility company vehicles, permitted vehicle operator and police escort, when necessary.

(ii) When operating with police escorts a CB radio is required.

(e) Pilot escort vehicles may not carry a load.

(5) Pilot escort vehicle signing requirements. Sign requirements on pilot escort vehicles are as follows:

(a) pilot escort vehicles must display an "OVERSIZE LOAD" sign, which must be mounted on the top of the pilot escort vehicle;

(b) signs must be a minimum of 5 feet wide by 10 inches high visible surface space, with a solid yellow background and 8 inch high by 1 inch wide black letters. Solid is defined as when being viewed from the front or rear at a 90-degree angle, no light can transmit through;

(c) the sign for the front pilot escort vehicle shall be displayed so as to be clearly legible and readable by oncoming traffic at all times; and

(d) the rear pilot escort vehicle shall display its sign so as to be readable by traffic overtaking from the rear and clearly legible at all times.

(6) Pilot escort vehicle lighting requirements. Two methods of lighting are authorized by the division. Requirements are as follows:

(a) two AAMVA approved amber flashing lights mounted with one on each side of the required sign. These shall be a minimum of six inches in diameter with a capacity of 60 flashes per minute with warning lights illuminated at all times during operation;

(b) an AAMVA approved amber rotating, oscillating, or flashing beacon or light bar mounted on top of the pilot escort vehicle. This beacon light bar must be unobstructed and visible for 360 degrees with warning lights illuminated at all times during operation; and

(c) incandescent, strobe or diode lights may be used provided they meet the above criteria.

(7) Pilot escort vehicle equipment requirements. Pilot escort vehicles shall be equipped with the following safety items:

(a) standard 18-inch or 24-inch red and white "STOP" and black and orange "SLOW" paddle signs. For nighttime travel moves, signs must be reflective in accordance with MUTCD standards;

(b) nine reflective triangles or 18-inch reflective orange traffic cones, not to replace or be replaced by items (c) or (d);

(c) eight red-burning flares, glow sticks or equivalent illumination device approved by the division;

(d) three orange 18 inch high cones;

(e) a flashlight with a minimum 1 1/2 inch lens diameter, with extra batteries or charger. An emergency type shake or crank flashlight will not be allowed;

(f) 6-inch minimum length red or orange cone or traffic wand for use when directing traffic;

(g) an orange hardhat and class 2 safety vest for personnel involved in pilot escort operations. Class 3 safety vests are required for nighttime travel moves;

(h) a height-measuring pole made of a non-conductive, non-destructive, flexible or frangible material, only required when escorting a load exceeding 16 feet in height;

(i) a fire extinguisher;

(j) a first aid kit that is clearly marked;

(k) one spare "OVERSIZE LOAD" sign, 7 feet by 18 inches;

(l) one serviceable spare tire, tire jack and lug wrench;

(m) a handheld two way simplex radio or other compatible form of communication for operations outside pilot escort vehicles; and

(n) vehicles shall not have unauthorized equipment on the vehicle such as those generally reserved for law enforcement personnel.

(8) Police escort vehicle equipment and safety requirements. Police escort vehicles shall be equipped with the following safety items:

(a) all officers must have a CB radio to communicate with the pilot and transport vehicles;

(b) officers shall complete a Utah Law Enforcement Check List and Reporting Criteria Form;

(c) officers shall verify that all pilot escorts are in possession of current pilot escort inspections, or they shall complete an inspection prior to load movement;

(d) police vehicles must be clearly marked with emergency lighting visible 360 degrees; and

(e) officers shall be in uniform while conducting police escort moves.

(9) Insurance for pilot escort vehicles.

(a) Driver shall possess a current certificate of insurance or endorsement which indicates that the operator, or the operator's employer, has in full force and effect not less than \$750,000 combined single limit coverage for bodily injury and property damage as a result of the operation of the escort vehicle, the escort vehicle operator, or both causing the bodily injury and property damage arising out of an act or omission by the pilot escort vehicle operator of the escort duties required by the regulations. Such insurance or endorsement, as applicable, must be maintained at all times during the term of the pilot escort certification.

(b) Pilot escort vehicles shall have a minimum amount of \$750,000 liability. This is not a cumulative amount.

(10) Pre-trip planning and coordination requirements. A coordination and planning meeting shall be held prior to load movement. The drivers carrying or pulling the oversize loads, the pilot escort vehicle drivers, law enforcement officers, department personnel, and public utility company representatives shall attend as required. When police escorts are present, a Utah Law Enforcement Check List and Reporting Criteria Form must be completed. This meeting shall include discussion and coordination on the conduct of the move, including at least the following topics:

(a) the person designated as being in charge such as a department representative or a law enforcement officer;

(b) all documentation for authorized routing and permit conditions is distributed to all appropriate individuals involved in the move;

(c) communication and signals coordination;

(d) permitted dimensions will be verified with measurement of load dimensions; and

(e) copies of permit and routing documents shall be provided to all parties involved with the permitted load movement.

(11) Permitted vehicle restrictions on certain highways. Certified pilot escort operators must refer to highway restrictions specified in the secondary highway restrictions prior to all load movements.

(12) Flagging requirements. During the movement of an over-dimensional load or vehicle, the pilot escort driver, in the performance of the flagging duties required by R909-2-28, may control and direct traffic to stop, slow or proceed in any situations where it is deemed necessary to protect the motoring public from the hazards associated with the movement of the over-dimensional load or vehicle. The pilot escort driver, acting as a flagger, may aid the over-dimensional load or vehicle in the safe movement along the highway designated on the over-dimensional load permit and shall:

(a) assume the proper flagger position outside the pilot escort vehicle, and as a minimum standard, have in use the necessary safety equipment as defined in 6E.1 of the MUTCD;

(b) use "STOP" and "SLOW" paddles or a 24-inch red or fluorescent orange or red square flag to indicate emergency situations, and other equipment as described in 6E.1 of the MUTCD; and

(c) comply with the flagging procedures and requirements as set forth in the MUTCD and the Utah Department of Transportation Flagger Training Handbook.

#### **R909-2-29. Requirements for Pilot Escort Qualified Training and Certification Programs.**

(1) Application process. Application to become a third-party pilot escort trainer or instructor shall be made on a form furnished by the division, and shall include the following:

(a) name and address of entity;

(b) list of instructors;

(c) resumes of each instructor outlining related experience in the pilot escort, heavy haul, academia, or commercial vehicle enforcement fields;

(d) a copy of entity's business license;

(e) sample of digital image certification card that will be issued to students upon completion of the course;

(f) sample of "Flagger" certification card that will be issued to students upon completion of the course;

(g) procedural guidelines that outline security measures implemented to safeguard student's personal information; and

(h) copies of all course curriculum and testing materials. Course materials will be reviewed and approved by the division to ensure that all requirements are met.

(2) Course curriculum requirements. An extensive course curriculum description and information can be obtained by contacting the division at (801) 965-4892. Course curriculum to certify pilot escort drivers to operate in Utah must cover the following topics:

(a) division rules governing over-size load movements;

(b) pilot escort operations;

- (c) flagging maneuvers for over dimensional loads;
- (d) oversize or overweight load movement, coordination, planning and communication requirements and best practices;
- (e) pilot escort vehicle positioning and situational training;
- (f) rail grade crossing safety;
- (g) routing techniques, including pre-trip surveys; and
- (h) insurance coverage requirements and liability issues.

(3) Testing procedures. Testing materials shall be submitted to the division for approval. Tests should be structured with a minimum of 40 questions per exam. A minimum of two different examinations shall be submitted and used randomly during the instruction of the course and structured as follows:

- (a) 12 Fill in the blank;
- (b) 12 Multiple choice;
- (c) 12 true and false questions;
- (d) one to six questions dealing with safety equipment;
- (e) one to four questions dealing with the duties of pilot escort drivers;
- (f) one to six questions dealing with maintenance of equipment; and
- (g) one to six questions dealing with items that must be collected in a route survey.

(4) Grading of examinations. Entity must provide an explanation of how the test will be administered.

(5) Students must pass with an 80% score to be certified.

(6) Students receiving less than 80% score will be allowed to attend one additional class without additional cost except for reimbursement of any additional materials and postage costs.

(7) When a contract is terminated with the third party pilot and escort trainer, it will be the responsibility of the entity to provide an electronic database to the division, of all students that have completed the course.

(8) Applicant Recertification Procedures.

(a) Entity shall provide means in which an individual may be re-certified either by mail or the internet.

(b) Entity shall submit written procedures documenting the process for the examination that will allow the applicant re-certification. The examination shall not be a duplicate of the examination used during the initial certification process and should be constructed as to educate the student on updates pertaining to pilot escort certification and legal requirements.

(c) Re-certification tests shall be structured as outlined in R-909-2-29.

(d) Applicant's receiving less than 80% score will be allowed to retake the certification exam one additional time at no additional class without additional cost except for reimbursement of any additional materials and postage costs.

(e) Students receiving less than 80% score will be allowed to attend one additional class or certify by mail or online without additional cost except for reimbursement of any additional materials and postage costs.

(9) Training costs. Costs associated with providing classroom instruction, materials, testing and credentialing will be the responsibility of the authorized training entity.

(a) These costs may be passed on to the students for certification in the form of tuition determined by the training entity based on business model and expenses.

(b) Cost proposal and course fees must be submitted to the division for approval as part of the application process.

(10) Suspensions and revocations of pilot escort training entities.

(a) The division may suspend or revoke the entity's ability to provide services if the entity fails to meet conditions and requirements set forth in r909-2-29.

(b) If an entity has its authority to provide services revoked or suspended, the entity may appeal the decision.

(i) The appeals shall be handled by a steering committee created by the division.

(ii) The steering committee shall have the powers granted to the department's deputy director for appeals from other division administrative actions.

(iii) This committee's decision, if adopted by the director of the division, will be considered a final agency order under the Utah Administrative Procedures Act.

(11) The division has the right to review:

- (a) rates;
- (b) fees;
- (c) procedures; and

(d) the certification process established by the entity whenever the division deems it necessary to ensure compliance with this rule.

(12) Record retention and data management requirements. Authorized pilot escort qualified training and certification entities or institutions shall maintain the following certification and recertification records for a period of eight years:

- (a) student's name, address, and contact information;
- (b) driver's license number, original MVR and original proof of insurance information from insurance provider;
- (c) copy of each student's written exam;
- (d) digital copy of certification flagger card, including photo;
- (e) training and expiration dates on all students;
- (f) re-certification and expiration dates; and
- (g) list of instructors, proctors, administrators, and a copy of their resumes and date of classroom instruction and recertification dates providing services.

(13) Records may be scanned and kept electronically provided entity has necessary data backup and retrieval procedures.

(a) The division has the right to review any records retained and may observe the instruction given both in the classroom and through the re-certification process whenever the division deems it necessary to insure compliance with this rule.

(b) The loss, mutilation or destruction of any records which an entity is required to maintain, must be immediately reported by the entity by affidavit stating the date such records were lost, mutilated, or destroyed, and the circumstances involving such loss, mutilation, or destruction.

(c) All records must be retained by the entity for eight years, with the exception of the computerized file, which is to be kept permanently, during which time the entity shall be subject to inspection by the division during reasonable business hours. In the event that the entity goes out-of-business, the permanent record shall be submitted by the entity to the division.

(d) It is the responsibility of the entity to provide a list of applicants that have successfully re-certified along with the



corresponding grade to the division at the end of each quarter of each calendar year.

(e) All records, including computerized records, must be provided to the division when requested for the purpose of an audit or review of the entities records. Failure to provide all records as requested by the division is a violation of this rule.

(f) Entities shall maintain accurate, up to date records.

**R909-2-30. Farmers, Implements of Husbandry and Agricultural Operations.**

(1) Vehicle combinations for hay truck operations may transport two rolls or bales of hay side by side when:

(a) the two rolls or bales are 10 feet or less in combined width;

(b) the load is being operated with a valid non-divisible oversize permit;

(c) oversize loads exceeding 8 feet 6 inches may not be transported on double trailers exceeding 61 feet cargo or cargo carrying length;

(d) the load must meet all other divisible load requirements in R909-2-24; and

(e) loads are properly secured.

(2) Implements of husbandry moved by a farmer, rancher, or his employees in connection with an agricultural operation must comply with:

(a) every farm tractor and towed farm equipment, towed or self-propelled implements of husbandry, designed for operation at speeds not in excess of 25 miles per hours, shall at all times be equipped with a slow moving vehicle emblem mounted on the rear; and

(b) every farm tractor and every self-propelled implement of husbandry manufactured or assembled after January 1970 shall be equipped with vehicular hazard warning lights visible from a distance of not less than 1,000 feet to the front and rear in normal sunlight, which shall be displayed whenever any such vehicle is operated upon a highway.

**R909-2-31. Snow Plow Operations.**

(1) Blades in excess of 8 feet 6 inches must be equipped with a yellow, rotating beacon warning light.

(2) Snow plows with up to 12 feet wide blades may operate without oversize permits, when they are in compliance with:

(a) lights which provide adequate illumination when the blade is in either the up, or down position;

(b) signaling lights shall not be obscured; and

(c) blades must be angled so that the minimum width is exposed to oncoming traffic during periods of travel between jobs.

**R909-2-32. Parade Floats.**

(1) Parade floats are not required to obtain an overweight or oversize permit, but they must meet the following requirements:

(a) all floats must have sufficient proof of insurance;

(b) all floats must carry the necessary safety equipment for the safe operation of the vehicle during movement;

(c) the float driver must have a clear 360 degree visibility;

(d) movement to and from parades should be made only during daylight hours unless the vehicle is adequately lighted and there is minimal congestion; and

(e) floats in excess of 14 feet in height, must be routed by the division.

**R909-2-33. Transportation of Utility Poles.**

(1) Utility poles may be transported up to 120 feet in overall length, including overhangs, with single trip, semi-annual or annual permit in accordance with:

(a) oversize load restrictions;

(b) pilot escort requirements;

(c) travel restrictions; and

(d) signing and lighting requirements.

(2) Permits are issued to the trailer transporting the poles using the trailer registration information.

(a) Upon company request, the permit may be issued to the truck or truck tractor.

(b) Utility poles exceeding 120 feet shall purchase a single trip, non-divisible oversize permit.

**R909-2-34. Special Mobile Equipment.**

(1) Special mobile equipment or SME refers to vehicles:

(a) not designed or used primarily for the transportation of persons or property;

(b) not designed to operate in traffic; and

(c) only incidentally operated or moved over the highways.

(2) Special mobile equipment exempt from registration includes:

(a) farm tractors; and

(b) off road motorized construction or maintenance equipment including backhoes, bulldozers, compactors, graders, loaders, road rollers, tractors, trenchers, and ditch digging apparatus.

(3) Heavy equipment designed for off-highway use such as scrapers, loaders, off highway cranes, and rock trucks, but not tracked vehicles may be issued single trip permits to operate under their own power, on approved routes other than interstate highways, as follows:

(a) the distance traveled shall not generally exceed 20 miles;

(b) only daylight operations are authorized and all oversize restrictions apply;

(c) weights must comply with the bridge formula for non-divisible loads;

(d) single axles equipped with single tires shall not be authorized to exceed 40,000 pounds;

(e) a minimum of one pilot escort vehicle is required; and

(f) special mobile equipment shall be routed by the division.

(4) Special mobile equipment or SME affidavit. All persons who operate or cause to operate an SME exempt from registration shall submit a completed special mobile equipment affidavit to the division.

(a) To be deemed complete, an affidavit must be on the form provided by the division and all required fields filled in. Affidavits will be available at all ports of entry. Affidavits shall be turned into a port of entry.

(b) Special mobile equipment exempt from registration shall carry a copy of the approved affidavit in the vehicle at all times;

(c) Vehicles that are not special mobile equipment shall register with the Utah State Tax Commission prior to operating the vehicle on a public highway.

(d) Upon receipt of a denial of special mobile equipment, if the owner or operator wishes to appeal the decision of the division, a petition may be filed with the department, within 30 days.

(i) A response to an appeal from the department will be made in writing within 30 days.

**R909-2-35. Special Truck Equipment.**

(1) The following vehicle configurations are considered special truck equipment:

- (a) concrete pumper trucks;
- (b) cranes or trucks performing crane service with a crane lift capacity of five tons or more; and
- (c) well boring trucks.

(2) Vehicles classified as special truck equipment may be issued an oversize or overweight permit when exceeding legal dimensions.

(a) An approved profile sheet for special truck equipment shall be carried in the vehicle with the permit, when the axle limitations specified in R909-2-5 Table 2 or actual bridge or gross are exceeded.

(3) Vehicles classified as special truck equipment are eligible for a 50 % registration fee reduction.

**R909-2-36. Port-of-Entry By-Pass Permit Provisions.**

(1) A temporary by-pass permit may be issued to accommodate the multi-trip, highway transportation needs to motor carriers who meet the following criteria.

(a) Motor carriers shall meet the "Multi-trip" definition to receive and maintain by-pass privileges.

(i) A motor carrier may receive an exception from this requirement on a case-by-case basis, if the motor carrier is able to demonstrate that denial of a by-pass permit will cause a hardship if the vehicle has to be diverted to a port-of-entry.

(b) The basis for qualification to participate in the by-pass program is based in part on the carrier's safety history as shown in the Federal Motor Carrier Safety Administration's Safety Measurement System.

(i) A carrier with a CSA basic scores equal to or greater than the intervention thresholds noted in Table 4 for General, HM and Passenger, plus one other BASIC at or above the motor carrier threshold is not eligible to participate in the by-pass program.

(ii) A carrier is not eligible for a by-pass permit when the carrier meets the definition of a High-Risk Motor Carrier in Table 4.

TABLE 4

High Risk Motor Carrier Criteria

BASIC	General	HM	Passenger
Unsafe Driving	65%	60%	50%
Fatigue Driving (HOS)	65%	60%	50%
Driver Fitness	80%	75%	65%
Controlled Substances and Alcohol	80%	75%	65%
Vehicle Maintenance	80%	75%	65%
Cargo-Related	80%	75%	65%
Crash Indicator	65%	60%	50%

(c) A carrier may become eligible for a by-pass permit after a focused or comprehensive review indicates that the carrier is in compliance.

(d) As a condition of receiving a by-pass permit, a motor carrier is subject to audits, safety assessments, and inspections as the division considers necessary in order to carry out state and federal law.

(e) Vehicles that obtain by-pass privileges must have a weight ticket, from a scale certified by the Department of Agriculture,

available for inspection by law enforcement. Scale tickets must be electronically printed and shall specify the time, date, unit-specific information, and destination.

(2) By-pass applications shall be submitted to the division.

(a) By-pass privilege carriers must re-apply yearly.

(b) Subcontractors operating under their own authority must apply for by-pass privileges independently.

(c) Carriers who lease vehicles from a subcontractor must ensure that the established by-pass criterion is met to maintain privileges.

(d) By-pass permit privileges are valid from the approval date and expire at the end of the application year on December 31.

(e) Applications must show routing information including point of origin, destination, and routine routes traveled.

(3) Approved vehicles within a motor carrier's fleet will be issued a by-pass decal, specific to each individual vehicle, and will receive a by-pass certificate that shall be carried in the vehicle.

(4) By-pass privileges may be granted to carriers traversing multiple ports of entry within the same route.

(5) Authorized by-pass routes are allowed for the following Port of Entries:

(a) Daniels Port of Entry on SR 40 with empty vehicles, traveling eastbound only;

(b) Kanab Port of Entry on Highway 89 from Kanab's Main Street to the Kanab Port of Entry, while traveling on Hwy 389 between Las Vegas, Nevada and Page, Arizona, and all vehicles must clear the St. George Port of Entry;

(c) Perry Port of Entry may be by-passed and travel on Highway 89 between Brigham City and Ogden; and

(d) Monticello Port of Entry may be by-passed on US-191 with empty vehicles only.

(6) By-pass privileges may be revoked or temporarily suspended should a carrier fail to meet the safety standards as set forth in the:

(a) Compliance, Safety, Accountability (CSA) program of the Federal Motor Carrier Safety Administration;

(b) Federal Motor Carrier Safety Regulations;

(c) size and weight limitations;

(d) by-pass zone routes; and

(e) out-of-service criteria.

(7) When an application for a by-pass permit is denied the motor carrier may file an appeal.

(a) The appeal shall be handled by the division hearing officer.

(8) The division will notify local law enforcement agencies of those carriers meeting the criteria for by-pass privileges.

**R909-2-37. Annual Review of Permit Regulations and Conditions.**

(1) During the regularly scheduled Motor Carrier Advisory Board meeting in April of each year, the board will review permit conditions and regulations as needed. The board is not required to review each of these items every year.

(2) This meeting will provide a forum for interested parties to provide evidence in support of regulation or permit condition modification.

(3) All interested parties must notify the division of these issues by March 1st of each year to ensure placement on the agenda.

(4) Any approved changes to permit conditions or regulations will be incorporated into this rule.

**KEY:** trucks, safety regulations, permits, size and weight  
**Date of Enactment or Last Substantive Amendment:** [~~November 26, 2012~~]**2017**

**Notice of Continuation:** June 16, 2014

**Authorizing, and Implemented or Interpreted Law:** 72-1-201; 72-7-406; 72-9-303; 41-1a-102; 41-1a-231; 41-1a-1206; 72-7-402; 72-7-404; 72-7-407; 72-9-301; 72-9-502

## Transportation, Operations, Traffic and Safety

### R920-30

#### State Safety Oversight

#### NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 42012

FILED: 08/11/2017

#### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** Federal Law, 49 U.S.C. 5330, requires states to oversee the safety and security of rail fixed guideway systems through a designated oversight agency. The Utah Department of Transportation (UDOT) is the designated oversight agency for Utah. The Federal Transit Administration has changed its regulations to require designated oversight agencies to assume greater responsibility for overseeing the safety of their rail fixed guideway systems. The regulations require state oversight agencies to develop and distribute a compilation of processes and procedures that governs the conduct of the oversight program at the state oversight agency level, and provides guidance to the regulated rail transit properties concerning processes and procedures they must have in place to be in compliance with the state safety oversight program known as a program standard. Program standards and any referenced program procedures must be submitted to FTA as part of the initial submission. Subsequent revisions and updates must be submitted to FTA as part of the oversight agency's annual submission. Program standards must meet the requirements specified and included, at a minimum, the areas identified in 49 CFR Part 659. 49 CFR Part 674 satisfies the requirements of 49 U.S.C. 5330, and 49 CFR Part 659. In the interest of efficiency and economy, the Department has determined that adopting all of 49 CFR Part 674 by reference is in the best interest of the state.

**SUMMARY OF THE RULE OR CHANGE:** This new rule adopts the contents and requirements of 49 CFR Part 674 by reference to be used as its program standard for overseeing the safety and security of the state's rail fixed guideway systems.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 72-1-201 and Section 72-1-208 and Section 72-1-214

#### ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** UDOT anticipates that this new rule will result in additional cost to the state budget because it assigns greater responsibilities to UDOT regarding its oversight of the safety and security of the state's rail fixed guideway systems. However, the mechanism for overseeing the safety and security of the state's rail fixed guideway systems is already in place, so these additional cost will likely be de minimus.

◆ **LOCAL GOVERNMENTS:** UDOT does not anticipate this new rule will result in any additional cost or savings to the budgets of local governments because it does not require anything of local governments.

◆ **SMALL BUSINESSES:** UDOT does not anticipate this new rule will result in any additional cost or savings to the budgets of small businesses because it does not require anything of small businesses.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** UDOT does not anticipate this new rule will result in any additional cost or savings to the budgets of persons other than small businesses, businesses, or local government entities because it does not require anything of persons other than small businesses, businesses, or local government entities. This new rule will only affect UDOT and the state agency responsible for the state's rail fixed guideway systems, which is the Utah Transit Authority.

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** UDOT anticipates that this new rule will result in additional costs to the budgets of the affected state agencies because it adds requirements for maintaining the safety and security of the state's rail fixed guideway systems.

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** This new rule should not have any fiscal impact on businesses. Its impact will be limited to state government.

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

TRANSPORTATION  
OPERATIONS, TRAFFIC AND SAFETY  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY, UT 84119-5998  
or at the Office of Administrative Rules.

#### DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at [cwnewman@utah.gov](mailto:cwnewman@utah.gov)  
 ◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at [jimpalmer@utah.gov](mailto:jimpalmer@utah.gov)  
 ◆ Linda Hull by phone at 801-965-4253, or by Internet E-mail at [lhull@utah.gov](mailto:lhull@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/02/2017

THIS RULE MAY BECOME EFFECTIVE ON: 10/09/2017

AUTHORIZED BY: Carlos Braceras, Executive Director

**R920. Transportation, Operations, Traffic and Safety.**

**R920-30. State Safety Oversight.**

**R920-30-1. Purpose and Authority.**

The purpose of this rule is to adopt the Federal Transit Administration standards for State Safety Oversight. This rule is authorized by Sections 72-1-201, 72-1-208, and 72-1-214.

**R920-30-2. Adoption of Federal Regulation.**

The Federal Transit Administration, State Safety Oversight, Final Rule, Title 49 CFR Part 674 (eff. April 15, 2016) as it applies to the management of the State Safety Oversight Program, is incorporated by reference.

**R920-30-3. Subpart A – General Provisions.**

A. Section 674.1 Purpose.

B. Section 674.3 Applicability.

C. Section 674.5 Policy.

D. Section 674.7 Definitions.

E. Section 674.9 Transition from Previous Requirements for State Safety Oversight.

**R920-30-4. Subpart B – Role of the State.**

A. Section 674.11 State Safety Oversight Program.

B. Section 674.13 Designation of Oversight Agency.

C. Section 674.15 Designation of Oversight Agency for Multi-State System.

D. Section 674.17 Use of Federal Financial Assistance.

E. Section 674.19 Certification of a State Safety Oversight Program.

F. Section 674.21 Withholding of Federal Financial Assistance for Noncompliance.

G. Section 674.23 Confidentiality of Information.

**R920-30-5. Subpart C – State Safety Oversight Agencies.**

A. Section 674.25 Role of the State Safety Oversight Agency.

B. Section 674.27 State Safety Oversight Program Standards.

C. Section 674.29 Public Transportation Agency Safety Plans: General Requirements.

D. Section 674.31 Triennial Audits: General Requirements.

E. Section 674.33 Notifications of Accidents.

F. Section 674.35 Investigations.

G. Section 674.37 Corrective Action Plans.

H. Section 674.39 State Safety Oversight Agency Annual Reporting to Fta.

I. Section 674.41 Conflicts of Interest.

**KEY: state safety oversight, transit, safety**

**Date of Enactment or Last Substantive Amendment: 2017**

**Authorizing, and Implemented or Interpreted Law: 72-1-201; 72-1-208; 72-1-214**

**Transportation, Operations, Traffic and  
Safety  
R920-50  
Ropeway Operation Safety**

**NOTICE OF PROPOSED RULE**

(Amendment)

DAR FILE NO.: 42011

FILED: 08/11/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** This rule establishes regulations, requirements, and provides standards for the design, construction, and operation of a passenger ropeway, except private residence passenger ropeways as defined in Subsection 72-11-102(11), and establishes the procedures necessary to implement the powers and duties of the Utah Passenger Ropeway Safety Committee (Committee). The rule refers to numerous requirements set forth in the American National Standards Institute (ANSI) for passenger ropeways. ANSI standards change from time to time and these changes to this rule are being made as a result of recent changes made to ANSI standards.

**SUMMARY OF THE RULE OR CHANGE:** This change adds definitions for "Governing Standard" and "Testing Personnel," which are based on similar definitions in the most recent ANSI standards, and changes text in the body of the rule so that it conforms to the new definitions. The section of this rule that regulates air space requirements relative to passenger ropeways is also amended to reflect the numbering on the most recent ANSL standards.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 72-11-210 and Title 72, Chapter 11

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** The Utah Department of Transportation (UDOT) does not anticipate that this rule change will result in any additional cost or savings to the state budget. The changes are technical and do not involve fiscal matters of any kind.

♦ **LOCAL GOVERNMENTS:** UDOT does not anticipate that this rule change will result in any additional cost or savings to the budgets of local governments. The changes are technical and do not involve fiscal matters of any kind.

♦ **SMALL BUSINESSES:** UDOT does not anticipate that this rule change will result in any additional cost or savings to the budgets of small businesses irrespective of industry or location within the state. The changes are technical and do not involve fiscal matters of any kind.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: UDOT does not anticipate that this rule change will result in any additional cost or savings to the budgets of persons other than small businesses, businesses, or local government entities, irrespective of industry or location within the state. The changes are technical and do not involve fiscal matters of any kind.

COMPLIANCE COSTS FOR AFFECTED PERSONS: These changes will not result in compliance costs for persons affected by the rule. The changes are technical and do not involve fiscal matters of any kind.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This amendment will not have a fiscal impact on business generally.

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

TRANSPORTATION  
OPERATIONS, TRAFFIC AND SAFETY  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY, UT 84119-5998  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at [cwnewman@utah.gov](mailto:cwnewman@utah.gov)  
◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at [jimpalmer@utah.gov](mailto:jimpalmer@utah.gov)  
◆ Linda Hull by phone at 801-965-4253, or by Internet E-mail at [lhull@utah.gov](mailto:lhull@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/02/2017

THIS RULE MAY BECOME EFFECTIVE ON: 10/09/2017

AUTHORIZED BY: Carlos Braceras, Executive Director

## **R920. Transportation, Operations, Traffic and Safety.**

### **R920-50. Ropeway Operation Safety.**

#### **R920-50-1. Purpose.**

This rule establishes regulations, requirements, and provides standards for the design, construction, and operation of a passenger ropeway, except private residence passenger ropeways as defined in Section 72-11-102(11), and establishes the procedures necessary to implement the powers and duties of the Utah Passenger Ropeway Safety Committee (Committee). Previously the Committee was known as the Utah Passenger Tramway Safety Committee. The Committee has also been referred to as the Tramway Board.

#### **R920-50-2. Authority.**

This rule is authorized by Section 72-11-210 to implement Title 72, Chapter 11, Passenger Ropeway Systems Act.

#### **R920-50-3. Definitions.**

In addition to terms defined at Section 72-11-102, the following terms are defined:

(1) "Aerial lift specialist" as used in American National Standards Institute (ANSI) B77.1 sections 3.3.4.1 and 4.3.4.1, means a Ropeway Inspector.

(2) "Aerial tramway specialist" as used in ANSI B77.1 section 2.3.4.1 means a Ropeway Inspector.

(3) "Air Space" means the area bounded by vertical planes commencing at a point thirty-five (35) feet from the intersection of the vertical planes of the ropes and ground surface.

(4) "Annual general inspection" means an inspection of a passenger ropeway made by a Ropeway Inspector to verify preservation of original design integrity and to determine that components and systems of the passenger ropeway are in proper working order and in accordance with this rule.

(5) "Audible warning devices" means an audible warning device that signals an impending start of the aerial lift.

(6) "Conveyor specialist" as used in ANSI B77.1 section 7.3.4.1 means a Ropeway Inspector.

(7) "Dynamic Testing Logs" means a record of the data collected during the dynamic test.

(8) "Experienced personnel" means an individual who has acquired knowledge and skills through study, training, or experience in ropeway maintenance, operation, or testing.

(9) "Existing ropeway" means any passenger ropeway that shall have been operated for passengers in excess of one calendar year.

(10) "Governing Standard" means "ANSI B-77.1, 2011" and "ANSI B77.2, 2014" as modified by rule of the Committee for use in the State of Utah. Use of these standards is authorized by Section 72-11-201.

(1[0]1) "Incident inspection" means an inspection of a passenger ropeway incident made by an approved Ropeway Inspector or a qualified engineer at the request of the Committee.

(1[+]2) "Land surveyor" means an individual licensed under Section 58-22-102 as a professional land surveyor.

(1[2]3) "Modification" means any change as defined in ANSI B77.1 Section 1.2.4.4, ANSI B77.2 Section 1.2.4.4, and the replacement of a ropeway component by one that alters the certified design or construction provided by the passenger ropeway manufacturer or designer.

(1[3]4) "New ropeway" means any passenger ropeway that is registered for the first time for passenger operation during its first calendar year of operation.

(1[4]5) "Operational inspection" means an inspection of a passenger ropeway made by a Ropeway Inspector to determine compliance with the operation and maintenance requirements of the Governing Standard and with this rule.

(1[5]6) "Operating personnel" means persons employed by the operator for the purpose of supervising the operation, or engaged in servicing, checking, inspecting or maintaining the machinery or structures of a ropeway and when specifically on duty for such purpose on that ropeway.

(1[6]7) "Passenger" means any person riding a ropeway, other than "operating personnel."

(1[7]8) "Passenger Ropeway Incident" means:

(a) Any structural, mechanical, or electrical malfunction or failure of a passenger ropeway component that results in bodily injury to any person on, or inside the load or unload zone of, a passenger ropeway;

(b) Any deropement regardless of whether or not the passenger ropeway is evacuated;

(c) Any evacuation of the passenger ropeway other than by prime mover or auxiliary power unit, regardless of cause;

(d) Any fire involving a passenger ropeway component or adjacent structure;

(e) Any structural, mechanical, or electrical malfunction or failure of a passenger ropeway component that results in a loss of control of the passenger ropeway as defined in ANSI B77.1 Section X.2.3.1 or ANSI B77.2 Section 2.2.1.7.2;

(f) Any wire rope damage which exceeds the requirement in ANSI B77.1 Section A.4.1.3 or ANSI B77.2 Section 3.4.1.1; and

(g) Any structural, mechanical, or electrical malfunction or failure of a passenger ropeway component or its primary connection that has the apparent potential for causing bodily injury to any person, including but not limited to, the following:

(i) Terminal Structure;

(ii) Bullwheel;

(iii) Brake System;

(iv) Tower Structure;

(v) Sheave, Axle, or Sheave Assembly;

(vi) Carrier; and

(vii) Grip.

(1[8]9) "Portable Ropeway" means a ropeway expressly designed to be portable, operated without a permanent foundation, and that has a design range of maximum grade.

([9]20) "Pre-operational inspection" means an inspection made by a Ropeway Inspector prior to the operation of any new or modified passenger ropeway requiring an Acceptance Inspection and Test.

(2[0]1) "Qualified engineer" means any engineer who is licensed to practice engineering in the state of Utah and who has been approved by the Committee.

(2[1]2) "Qualified personnel" as used in ANSI B77.1 sections 2.1.1.11, 3.1.1.11, 4.1.1.11, 5.1.1.11, 6.1.1.11, and 7.1.1.11 means a qualified engineer.

(2[2]3) "Relocated ropeway" means any passenger ropeway moved to a new location.

(2[3]4) "Responsible charge" means effective control and direction of the installation or modification of a passenger ropeway.

(2[4]5) "Ropeway Inspector" means an engineer licensed to practice engineering in the state of Utah, independent of the ropeway owner, and approved by the Committee to inspect passenger ropeways.

(2[5]6) "Structure" means any edifice, including residential and public buildings, or any other structure or equipment that could reasonably be expected to interfere with the safe operation of a ropeway. Ropeway components required for the operation of the ropeway are not structures.

(2[6]7) "Surface lift specialist" as used in ANSI B77.1 section 5.3.4.1, means a Ropeway Inspector.

(28) "Testing Personnel" means individuals that are performing non-destructive testing (NDT) inspections (i.e.,

manufacturer, inspection agency, other personnel, or in-house personnel) who shall be qualified in accordance with nationally recognized NDT personnel qualifications standards: ANSI/ASNT-CP189, SNT-TC-1A, MIL STD 410, NAS-410, or equivalent.

(2[7]9) "Tow specialist" as used in ANSI B77.1 section 6.3.4.1 means a Ropeway Inspector.

#### **R920-50-4. General Requirements for Passenger Ropeways.**

(1) Passenger ropeways operating in the State of Utah shall be registered annually with the Committee, and no passenger ropeway shall be operated for passengers without a valid certificate of registration.

(2) Ropeways require a qualified engineer to certify the design, manufacturing, and construction of the ropeway. A Qualified Engineer or Land Surveyor is required to complete the "as-built" profile and certification.

(3) Existing ropeways, when removed and reinstalled, shall be classified as new installations.

(4) Ropeway operators shall be covered by a liability insurance of a minimum of \$300,000. The Utah Passenger Ropeway Safety Committee shall be notified of a lapse or termination of insurance coverage pursuant to the terms of the policy.

#### **R920-50-5. Application to Register a Passenger Ropeway.**

(1) Each year prior to operating a passenger ropeway the ropeway operator shall apply to the Committee, for a Certificate of Registration. In the event a new operator is assigned, the operator shall notify the Committee of such action and shall apply for a Certificate of Registration.

(2) Term - Passenger ropeways shall be registered annually starting November 1st of each year, and each registration expires on October 31st next following date of issue.

(3) Application for Certificate of Registration for existing ropeways shall include the following:

- (a) Annual General Inspection Report;
- (b) Annual registration fee;
- (c) Approved request for exception, if applicable;
- (d) Certification of Compliance; and
- (e) Certificate of Insurance.

(4) Application for Certificate of Registration for new ropeways shall include the following:

- (a) Annual registration fee;
- (b) Approved request for exception, if applicable;
- (c) Certification of Compliance;
- (d) Certificate of Insurance;
- (e) Certifications required in R920-50-6;
- (f) Documents required in R920-50-7; and
- (g) Preoperational Inspection Report.

(5) Submittal of application for registration of ropeways - All applications for registration of new or existing ropeways shall be submitted in such form as the Committee shall designate and in accordance with requirements of these rules. Applications shall be made in writing and addressed to:

Utah Department of Transportation  
Passenger Ropeway Safety Committee  
Traffic and Safety Division  
4501 South 2700 West  
Salt Lake City, Utah 84119

**R920-50-6. Certifications Required for Ropeways.**

(1) The Certifications listed below must include the following information:

(a) Name, address and telephone number of operator of the ropeway, name of ropeway supervisor, operator's designation of the ropeway;

(b) Designated certifying statement;

(c) A certification of design, and construction must also include the name, address, seal, and Utah license of the qualified engineer making the certification; and

(d) A certification of "as-built" profile must also include the name, address, seal, and Utah license of the qualified engineer or land surveyor making the certification.

(2) A Certification of Compliance for Passenger Ropeway shall be made on the Application for Certificate of Registration for the Ropeway.

(a) The certification shall be signed and dated by the ropeway owner or area operator.

(b) The certification shall include the following statement: "I certify that the reports, requests and certificates attached hereto were provided and signed by the persons required by law to provide them, and the deficiencies noted in the inspection report have been corrected with the exception of those listed in the Request for Exception from Standards for Passenger Ropeway."

(3) A Certification of Ropeway Design for New or Modified Passenger Ropeways, must be submitted.

(a) The Qualified Engineer in responsible charge of the design shall certify to the Committee that the design, plans and specifications conform to the Utah Passenger Ropeway Safety Act, the Governing Standard and the Utah Ropeway Operation Safety Rule.

(b) The Certification must be submitted prior to the performance of the Acceptance Inspection and Test.

(c) The certification must state the following:

"I hereby certify that the design for this ropeway or ropeway modification is in complete compliance with the Utah Passenger Ropeway Safety Act, Governing Standard and the Utah Ropeway Operation Safety Rule."

(d) This statement shall be placed on the top of the drawing packet and signed and sealed by the qualified engineer. Each additional sheet of this drawing packet shall be sealed by the qualified engineer.

(e) The drawings and specifications shall include the quality assurance methods used for the evaluation of the re-used components and shall be submitted for review a minimum of 30 days prior to installation. Any component on the Utah Passenger Ropeway Safety Committee Lift Data Form must be addressed.

(4) A Certification of Construction for Passenger Ropeways must be submitted by a Qualified Engineer directly responsible for the construction for the ropeway.

(a) The Certification must be submitted prior to the performance of the Acceptance Inspection and Test.

(b) The certification must state the following:

"I hereby certify that the construction and installation has been completed in accordance with the drawings and specifications issued for this ropeway or ropeway modification by the Qualified Design Engineer."

(5) A Certification of "as-built" profile for the Passenger Ropeway must be submitted by a Qualified Engineer or Land Surveyor licensed in the State of Utah.

(a) The "as-built" profile must be submitted prior to the performance of the Acceptance Inspection and Test.

(b) The certification must state the following:

"I hereby certify that the attached "as-built" profile of the herein-identified ropeway is as represented on the attached profile drawing and that the completed ropeway conforms to the profile as identified in the plans and specifications prepared by the Qualified Design Engineer."

**R920-50-7. Documents Required for Ropeways.**

(1) A Utah Passenger Ropeway Safety Committee Lift Data Form must be submitted along with other requested supporting documents. This form must be submitted prior to the performance of the Acceptance Test.

(2) A copy of the acceptance test procedure proposed and submitted by the designer or manufacturer must be provided to the Committee for review at least fourteen (14) days before acceptance testing begins. The qualified engineer determines the acceptance test requirements.

(3) The owner or area operator shall notify the Committee in writing before the acceptance test that the continuous operation requirements of ANSI B77.1 section X.1.1.11 or ANSI B77.2 section 2.1.1.11.2 have been completed.

(4) A final acceptance test report must be submitted to the Committee prior to opening the lift to the public. The qualified engineer shall approve any changes to the acceptance test procedure.

(5) "As-built" drawings for each passenger ropeway shall be submitted no later than 60 days after the project is completed and the Acceptance Test is finished. Any variation from the design drawings shall be noted in the as-built drawings and approved by the Qualified Design Engineer.

(6) The area operator shall send a "letter of intent" to the Committee at least 45 days prior to beginning the construction of a new lift. The letter of intent must include the name of the qualified engineer, the design standard, the anticipated dates to begin and complete construction, and the available lift manufacturing data.

**R920-50-8. Certificate of Registration.**

(1) If the application for Certificate of Registration and supporting documentation attest that the ropeway complies with the Governing Standard and this rule, the Committee, if satisfied with the facts stated in the application, shall issue a Certificate of Registration to the operator.

(2) Identification number - For each ropeway, upon receipt of the first application for a Certificate of Registration, the Committee shall assign an identification number to the ropeway, which shall remain as a permanent identification number for the life of the ropeway. All correspondence with the Committee pertaining to any ropeway shall refer to the identification number assigned to that ropeway.

**R920-50-9. Governing Standards.**

~~[(1) The governing standards in Utah include "ANSI B-77.1, 2011" and "ANSI B77.2, 2014" as modified by rule of the Committee. Use of these standards is authorized by Section 72-11-204.~~

~~\_\_\_\_\_][2]1) The Utah Passenger Ropeway Safety Committee reserves the right to [modify,]add, alter, or delete provisions included in the Governing Standard for use in the State of Utah.~~

([3]2) Existing installations need not comply with the new or revised requirements of the Governing Standard and this rule except as set forth in R920-50-11 "Applicable Provisions."

**R920-50-10. Revised and Additional Provisions.**

The revised and additional provisions of this section shall only apply when referenced in R920-50-11 "Applicable Provisions."

(1) "New installations and relocated installations." ANSI B77.1 Section 1.2.4.3 is modified by the following requirement: New ropeways and relocated ropeways shall comply with the new or revised requirements of the Governing Standard and with these rules at the time of the acceptance test.

(2) "Auxiliary drives." Installations shall meet the requirements for auxiliary drives, as set forth in ANSI B77.1-1992, 2.1.2.1.1, 3.1.2.1.1, 4.1.2.1.1.

(3) "Electronic speed-regulated drives." Installations shall meet the requirements for electronic speed-regulated drives as set forth in ANSI B77.1-1992, 2.2.1.8.2, 3.2.1.8.2, 4.2.1.8.2, 5.2.1.8.2, 6.2.1.8.2.

(4) "Rope position monitoring." Installations shall meet the requirements for rope position monitoring, as set forth in ANSI B77.1-1992, 3.1.3.3.2, paragraph 6.

(5) "Friction type brakes." Installations shall meet the requirements for friction type brakes, as set forth in ANSI B77.1-1992, 2.1.2.5, 3.1.2.5, 4.1.2.5, 5.1.2.5, 6.1.2.5.

(6) "Fire detection." All machine rooms that are in an enclosed structure located adjacent to the rope of the tramway (vaulted) shall have a fire detection system installed in accordance with the National Fire Alarm Code. This system shall initiate a visual and audible alarm monitored at the drive terminal operator station.

(7) "Grips, clips, and carrier testing." Testing shall be completed according to section ANSI B77.1 sections 2.3.4.3, 3.3.4.3, 4.3.4.3, and ANSI B77.2 section 2.3.4.4 except as modified by this rule.

(a) Testing personnel ~~[shall be qualified in accordance with American Society for Nondestructive Testing (ASNT) Recommended Practice No. SNT-TC-1A-1992] performing non-destructive testing (NDT) inspections (i.e., manufacturer, inspection agency, other personnel, or in-house personnel) shall be qualified in accordance with nationally recognized NDT personnel qualifications standards: ANSI/ASNT-CPI89, SNT-TC-1A, MIL STD 410, NAS-410, or equivalent.~~ [Testing agency shall provide e] Certification of qualification of personnel performing testing shall be provided.

(b) Testing ~~[agency inspector] personnel~~ shall certify to the owner or area operator that the passenger ropeway components tested were non-destructively tested in accordance with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer.

(c) Sampling size and method of obtaining the sample shall comply with the Governing Standard or the manufacturer's requirement, whichever is more stringent.

(d) Rejection rate and retest procedures shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer.

(e) Types of inspections to be performed and the procedures to be used shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer.

(f) Criteria for acceptance/rejection of samples shall comply with current acceptance criteria established by the designer or manufacturer, or in case the designer or manufacturer is no longer in business, by a Qualified Engineer.

(8) "Wire rope inspection." Inspections shall be performed according to ANSI B77.1 Annex A.4.1 and ANSI B77.2 3.4.1 and shall be performed by a competent inspector defined by the Governing Standard and who is approved by the Committee. The wire rope inspector shall certify to the owner or area operator whether the wire rope in its present condition meets requirements for continued operation.

(9) "Operation and maintenance." All installations shall comply with the Operation and Maintenance requirements of the Governing Standard. These requirements are stated in ANSI B77.1, 2.3, 3.3, 4.3, 5.3, 6.3, 7.3, and ANSI B77.2 2.3.

(10) "Audible warning devices." Requirements for audible warning devices.

(a) Installations shall meet the requirements for audible warning devices as specified by ANSI B77.1, 2.2.10, 3.2.10.

(b) ANSI B77.1 Section 4.2.10 is modified by the following requirement: The aerial lift shall incorporate an audible warning device that signals an impending start of the aerial lift. After the start button is pressed, the device shall sound an audible alarm for a minimum of two seconds before the aerial lift begins to move. The audible device shall be heard inside and outside all terminals and machine rooms above the ambient noise level.

(11) "Conveyor Standards."

(a) Loading and unloading area requirements of ANSI B77.1 section 7.1.1.9 shall also accommodate the use of adaptive devices.

(b) Power units referred to in ANSI B77.1 section 7.1.2.1 may not have reverse capability.

(c) "Power supply cords" referred to in ANSI B77.1 section 7.2.1.5.6 shall be protected from snow grooming, skiers, and other equipment and shall be ground fault protected.

(d) The belt transition entry stop device referred to in ANSI B77.1 section 7.2.3.3 shall include redundant (double) sensors. Each sensor shall be part of an independent control circuit that can initiate an emergency shutdown of the conveyor. The device shall be so designed and maintained that no single point of failure can cause the entry stop device to malfunction. The device shall not be remotely resettable and shall require the operator to reset the device prior to restarting the conveyor.

(12) "Dynamic Testing Logs." Maintenance logs shall include documentation of the dynamic testing.

(13) "Air Space Requirements." ANSI B77.1[-2006,] section ~~[2-1-1-3]2.1.1.4, [3-1-1-3]3.1.1.4, [4-1-1-3]4.1.1.4, [5-1-1-3]5.1.1.4, and [6-1-1-3]6.1.1.4~~ and ANSI B77.2 section ~~[2-1-1-2]2.1.1.4~~ shall also include the following: No structure (temporary or permanent) shall be permitted to encroach into the air space of the ropeway.

(14) "Portable Ropeways." Portable ropeways shall not be considered new ropeways when moved to different locations but remaining under the jurisdiction of the same operator.

(15) "Tows Requirements."

(a) The requirements of ANSI B77.1 section 6.2.3.2.b) shall also require the stop gate to extend across the incoming and outgoing rope.



(b) Handle Tows shall have stop gates above and below the rope.

(16) "Existing Installations - Annex F" ANSI B77.1-2011 Section 1.2.4.1 Existing installations is modified by the following: Operation and maintenance is not required to comply with normative Annex F Combustion engine(s) and fuel handling.

**R920-50-11. Applicable Provisions.**

Installations shall comply with the "Revised and Additional Provisions" of R920-50-10 in the categories listed below, on or before the date specified. These provisions establish the minimum requirement.

- (1) The following apply to all ropeways:
- (a) New installations and relocated installations R920-50-10(1);
- (b) Fire detection R920-50-10(6); effective November 1, 1995;
- (c) Wire rope inspection R920-50-10(8); and
- (d) Operation and maintenance R920-50-10(9).
- (e) Existing Installations - Annex F R920-50-10(16); effective June 7, 2012.
- (2) The following provisions apply to an Aerial Tramway:
- (a) Auxiliary drives R920-50-10(2); effective November 1, 1994;
- (b) Electronic speed-regulated drives R920-50-10(3); effective November 1, 1994;
- (c) Friction type brakes R920-50-10(5); effective November 1, 1995;
- (d) Grips, clips, and carrier testing R920-50-10(7);
- (e) Audible warning devices R920-50-10(10); effective November 1, 2001;
- (f) Dynamic testing logs R920-50-10(12); and
- (g) Air space requirements R920-50-10(13); effective November 1, 2006.
- (3) The following provisions apply to a Detachable Grip Aerial Lift:
- (a) Auxiliary drives R920-50-10(2); effective November 1, 1994;
- (b) Electronic speed-regulated drives R920-50-10(3); effective November 1, 1994;
- (c) Rope position monitoring R920-50-10(4); effective November 1, 1994;
- (d) Friction type brakes R920-50-10(5); effective November 1, 1995;
- (e) Grips, clips, and carrier testing R920-50-10(7);
- (f) Audible warning devices R920-50-10(10);
- (g) Dynamic testing logs R920-50-10(12); and
- (h) Air space requirements R920-50-10(13); effective November 1, 2006.
- (4) The following provisions apply to a Fixed Grip Aerial Lift:
- (a) Auxiliary Drives R920-50-10(2); effective November 1, 1994;
- (b) Electronic speed-regulated drives R920-50-10(3); effective November 1, 1994;
- (c) Friction type brakes R920-50-10(5); effective November 1, 1995;
- (d) Grips, clips, and carrier testing R920-50-10(7);

(e) Audible warning devices R920-50-10(10);

(f) Dynamic testing logs R920-50-10(12); and

(g) Air space requirements R920-50-10(13); effective November 1, 2006.

(5) The following provisions apply to a Surface Lift:

(a) Electronic speed-regulated drives R920-50-10(3); effective November 1, 1994;

(b) Friction type brakes R920-50-10(5); effective November 1, 1995; and

(c) Air space requirements R920-50-10(13); effective November 1, 2006.

(6) The following provisions apply to a Rope Tow:

(a) Electronic speed-regulated drives R920-50-10(3); effective November 1, 1994;

(b) Friction type brakes R920-50-10(5); effective November 1, 1995;

(c) Air space requirements R920-50-10(13); effective November 1, 2006;

(d) Tow requirements R920-50-10(15); and

(e) Portable Ropeways R920-50-10(14).

(7) The following provisions apply to a Conveyor:

(a) Conveyor standards R920-50-10(11); and

(b) Portable Ropeways R920-50-10(14).

**R920-50-12. Exceptions to Standards.**

(1) In the event that the ropeway does not conform with the governing standards and the Ropeway Operation Safety Rule, the Committee may issue a certificate of registration with an exception. Two types of exceptions may be granted after a Request for Exception from Standards is submitted.

(a) Annual Exception - This type of exception must be reviewed annually by the Committee. This type of exception is subject to cancellation at any time pursuant to a determination by the Committee that a change is necessary.

(b) Limited Exception - This type of exception is granted only for a fixed time period to be determined by the Committee.

(2) The nature of the exception shall be stated in the Request for Exception from Standards.

(3) The Committee shall, as expeditiously as possible, and within thirty (30) days of receipt of a Request for Exception from Standards, notify the operator in writing of its action on the Request.

(4) The Request for Exception from Standards shall include the following information:

(a) Reasons for requesting an exception;

(b) Identification of the manner in which the ropeway does not conform to the governing standards or this rule; and

(c) Procedures, with estimated time and cost, which would be required to bring the ropeway into conformance.

(5) Except as required in R920-50-12(7), the Committee shall issue a Certification of Registration with an exception if the operator satisfies the requirements stated in R920-50-12(4) and also supplies the following for new or existing ropeways:

(a) New Ropeways.

(i) A design certification by a qualified engineer attesting that the ropeway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety to those that meet requirements set forth in the Governing Standard and this rule.

(ii) Any known items that require a Request for Exception from Standards for Passenger Ropeways must be submitted to the Committee before work begins.

(b) Existing Ropeways.

(i) A design certification by a qualified engineer attesting that the ropeway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety to the requirements of the Governing Standard and this rule.

(ii) A statement by the operator certifying that the ropeway feature for which the exception is requested has been operated safely and without any passenger ropeway incident, as defined in R920-50-3(17) item (a) or (g), for at least 2 years prior to the date of the Request for Exception from Standards.

(6) In exceptional circumstances, the Committee may issue a certificate of registration with an exception even if the operator does not satisfy the requirements defined in the Governing Standard or this rule if the Committee determines that the ropeway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety.

(7) Where doubt exists as to the safety of a ropeway, the Committee may require an inspection to ascertain that the ropeway is so designed and equipped that its devices or methods provide features that are comparable in performance and safety to those of the governing standards and this rule.

(8) The issuance of a certificate of registration with an annual exception shall not bind the Committee to issue such a certificate for the ropeway involved in subsequent years, nor to issue such a certificate for another ropeway of same or similar design.

#### **R920-50-13. Operation of Ropeways.**

(1) Every passenger ropeway incident shall be reported to the Committee regardless of the time of year in which it occurs and regardless of whether or not the ropeway was open to the public at the time of the incident. The operator shall meet the requirements stated in R920-50-14.

(2) When a ropeway is modified the ropeway operator shall notify the Committee, or its appointed representative. The operator shall meet the requirements stated in R920-50-15.

#### **R920-50-14. Incidents.**

(1) Reporting of Incidents.

(a) Every passenger ropeway incident, as defined in R920-50-3(18) shall be verbally reported to the Committee, or the Committee's appointed representative, as soon as reasonably possible, but no later than twenty-four (24) hours after the time of the incident. A written report shall be delivered to the Committee within five (5) days of the incident.

(b) The reports required by this section are to be maintained for administrative enforcement, licensing and certification purposes only. The reports are "protected" records under the Government Records Management Act, Section 63G-2-305 and are also governed by Section 63G-2-207.

(2) Suspension of Operations. When a passenger ropeway incident, as defined in R920-50-3(17) (a) or (g), occurs, the owner or area operator of the ropeway shall suspend operation of the ropeway and shall notify the Committee through the Committee's appointed representative. The owner or area operator of the ropeway, with the Committee or the Committee's appointed representative, shall perform a joint incident inspection of the ropeway. The inspection shall

precede any authorization to resume public operation of the passenger ropeway.

#### **R920-50-15. Modification of a Ropeway.**

(1) The Committee, or its appointed representative shall determine the certifications that will be required.

(2) Depending on the nature and extent of the modification the Committee, or its appointed representative may require an Acceptance Inspection and Test.

(3) The following certifications may be required: design; construction, and As-Built profile.

(4) The certifications must be submitted by a qualified engineer and attached to the cover of the modification documents. The modification documents shall include the drawings, descriptions, or specifications pertaining to the affected systems and their connections with existing systems.

(5) A revised lift data form shall be submitted.

(6) The ropeway shall not resume operating until authorized by the Committee, or its appointed representative.

#### **R920-50-16. Inspections and Testing.**

(1) Inspections shall verify that the intent of the design and operational requirements imposed by the Governing Standard and this rule are met. The Committee may order other inspections in accordance with Section 72-11-211. Ropeway inspectors may inspect ropeways at any time during the operation of the ropeway (spot check). All reports, logs, etc. shall be made available to them upon request.

(2) Acceptance Inspection and Test.

(a) The Committee, or its appointed representative, will schedule acceptance inspection and test as the procedures are received.

(3) Annual General Inspection.

All existing ropeway shall have an annual general inspection.

(a) A ropeway inspector shall make the inspection.

(b) The inspection shall occur prior to approval of any registration application.

(c) A report signed by the Ropeway Inspector listing items found either deficient or in noncompliance shall be filed with the owner.

(d) The report shall include the name and address of the inspector and the date of the inspection.

(e) The area operator shall notify the Committee, or its appointed representative of the annual general inspection. The area operator should give 7 days notice of the inspection.

(f) The owner shall correct all deficiencies and noncompliance items listed in the Ropeway Inspector's report.

(4) Incident Inspection.

Incident inspections shall occur as required in R920-50-14.

(5) Operational Inspection.

An Operational inspections may be made periodically during each season of use.

(a) A ropeway inspector shall make the inspection.

(b) A report signed by the Ropeway Inspector listing items found either deficient or in noncompliance shall be filed with the owner.

(c) The report shall include the name and address of the inspector and the date of the inspection.

(d) The owner shall correct all deficiencies and noncompliance items listed in the Ropeway Inspector's report.

(6) Pre-operational Inspection.

A pre-operational inspection is required for new and modified lifts.

(a) A ropeway inspector shall make the inspection.

(b) The inspection shall occur prior to approval of any registration application.

(c) A report signed by the Ropeway Inspector listing items found either deficient or in noncompliance shall be filed with the owner.

(d) The report shall include the name and address of the inspector and the date of the inspection.

(e) If the inspection does not take place at the acceptance inspection and testing the area operator shall notify the Committee, or its appointed representative of the inspection. The area operator should give 7-days notice of the inspection.

(f) The owner shall correct all deficiencies and noncompliance items listed in the Ropeway Inspector's report.

**R920-50-17. Ropeway Inspector and Qualified Engineer.**

(1) General.

(a) Any person performing inspection services must be a "ropeway inspector" as required by this rule, and any person performing design services must be a "qualified engineer", as required by this rule.

(b) The Committee shall maintain up-to-date lists of qualified engineers and ropeway inspectors, which lists shall be open to inspection by the public.

(c) Any person desiring to be approved by the Committee as a ropeway inspector or qualified engineer shall submit a written request to the Committee enumerating his or her professional experience and attesting as far as possible to meeting the requirements stated in R920-50-17(2).

(2) Requirements.

(a) Applicant shall satisfy the Committee that by his or her education, training and experience gained by participation in ropeway inspections or designs as a principal or an assistant to a recognized ropeway inspector or ropeway designer, he or she is qualified to be, respectively, an approved inspector or designer or both.

(b) Applicant shall satisfy the Committee that he has a working familiarity and understanding of drawings and design data such as are furnished to design, construct, test, and inspect passenger ropeways, and that he or she has an understanding and working knowledge of the governing standard and this rule.

(c) The Committee may approve qualifications based on experience gained by an applicant through work under direct supervision of a qualified ropeway inspector or qualified ropeway designer.

(d) The Committee may approve employees of the state or individuals retained by the state as qualified ropeway inspectors. Such engineers may be given certain assignments where time is of the essence or a private engineer is not available or willing to undertake the inspection or investigation. It shall be the policy of the Committee to use the services and talents of qualified private engineers wherever possible.

(3) Revocation or suspension of approval as ropeway inspector or qualified engineer.

The committee may revoke or suspend the approval of any qualified engineer or ropeway inspector who is found by the committee to have:

(a) practiced any fraud, misrepresentation, or deceit in applying for approval;

(b) caused damage to another by gross negligence in the practice of passenger ropeway designing, construction, or inspection; or

(c) been engaged in acts of unlawful or unprofessional conduct.

**R920-50-18. Violations.**

The Committee may address violations of this rule pursuant to Sections 72-11-212 and 72-11-213.

**R920-50-19. Administrative Procedures.**

Appeals from orders issued pursuant to any provision of this rule shall be governed by R907-1.

**KEY: transportation safety, tramways, ropeways, tramway permits**

**Date of Enactment or Last Substantive Amendment: [~~August 9, 2016~~2017]**

**Notice of Continuation: April 16, 2012**

**Authorizing, and Implemented or Interpreted Law: 72-11-201 through 72-11-216**

**Transportation, Operations, Traffic and  
Safety  
R920-51  
Safety Regulations for Railroads**

**NOTICE OF PROPOSED RULE**

(Repeal)

DAR FILE NO.: 42008

FILED: 08/11/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** After reviewing the rule, the Department of Transportation determined that the rule is no longer needed and should be repealed. The federal regulations that this rule adopts by reference have changed and they no longer apply to the Department.

**SUMMARY OF THE RULE OR CHANGE:** This change repeals the rule entirely.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 54-4-14 and Section 72-1-201

**ANTICIPATED COST OR SAVINGS TO:**

◆ **THE STATE BUDGET:** The Department does not anticipate that this change will result in any additional cost to the state budget. The change may result in savings to the state budget because the Department will no longer need to enforce the federal regulations the rule adopts by reference, but these savings are difficult to measure and since this change

eliminates the rule, quantifying any savings is not practical or cost effective.

◆ LOCAL GOVERNMENTS: The Department does not anticipate that this change will result in any additional cost or savings to the the budgets of local governments because the rule does not apply to local governments.

◆ SMALL BUSINESSES: The Department does not anticipate that this change will result in any additional cost or savings to the the budgets of small businesses because the rule does not apply to small businesses. Any effect the rule may have on the budgets of small businesses is derivative and impossible to quantify.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The Department does not anticipate that this change will result in any additional cost or savings to the the budgets of persons other than small businesses, businesses, or local government entities because the rule does not apply to persons other than small businesses, businesses, or local government entities.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The Department does not anticipate that this change will result in any compliance costs for persons affected by the rule because the change eliminates the existing rule.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The repeal of Rule R920-51 should have no appreciable or quantifiable affect on business.

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

TRANSPORTATION  
OPERATIONS, TRAFFIC AND SAFETY  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W  
SALT LAKE CITY, UT 84119-5998  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at [cwnewman@utah.gov](mailto:cwnewman@utah.gov)  
◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at [jimpalmer@utah.gov](mailto:jimpalmer@utah.gov)  
◆ Linda Hull by phone at 801-965-4253, or by Internet E-mail at [lhull@utah.gov](mailto:lhull@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/02/2017

THIS RULE MAY BECOME EFFECTIVE ON: 10/09/2017

AUTHORIZED BY: Carlos Braceras, Executive Director

## **R920. Transportation, Operations, Traffic and Safety.**

### **[R920-51. Safety Regulations for Railroads:**

#### **R920-51-1. Adoption of Federal Regulations:**

~~\_\_\_\_\_ Safety Regulations for Railroads, Title 49 Federal Railroad Administration, Department of Transportation is adopted by reference as it applies to all private, common, and contract carriers by rail in Interstate and/or Intrastate Commerce.~~

#### **R920-51-2. Part 200 -- Informal Rules of Practice for Passenger Service:**

~~\_\_\_\_\_ A. General  
\_\_\_\_\_ B. Definition  
\_\_\_\_\_ C. Application  
\_\_\_\_\_ D. Objections  
\_\_\_\_\_ E. Hearings  
\_\_\_\_\_ F. Orders, approvals and determinations  
\_\_\_\_\_ G. Publication~~

#### **R920-51-3. Part 201 -- Formal Rules of Practice for Passenger Service:**

~~\_\_\_\_\_ A. General  
\_\_\_\_\_ B. Definitions  
\_\_\_\_\_ C. Scope of regulations  
\_\_\_\_\_ D. Application  
\_\_\_\_\_ E. Notice of hearing  
\_\_\_\_\_ F. Notification by interested persons  
\_\_\_\_\_ G. Presiding officer  
\_\_\_\_\_ H. Direct testimony submitted as written documents  
\_\_\_\_\_ I. Mailing address  
\_\_\_\_\_ J. Inspection and copying of documents  
\_\_\_\_\_ K. Ex parte communications  
\_\_\_\_\_ L. Prehearing conference  
\_\_\_\_\_ M. Final agenda of the hearing  
\_\_\_\_\_ N. Determination to cancel the hearing  
\_\_\_\_\_ O. Rebuttal testimony and new issues of fact in final agenda  
\_\_\_\_\_ P. Waiver of right to participate  
\_\_\_\_\_ Q. Conduct of the hearing  
\_\_\_\_\_ R. Direct testimony  
\_\_\_\_\_ S. Cross-examination  
\_\_\_\_\_ T. Oral and written arguments  
\_\_\_\_\_ U. Recommended decision, certification of the transcript, and submission of comments in the recommended decision.~~

#### **R920-51-4. Railroad Safety Enforcement Procedures:**

~~\_\_\_\_\_ A. Subpart A - General  
\_\_\_\_\_ B. Subpart B - Hazardous Materials Penalties~~

#### **R920-51-5. Part 210 -- Railroad Noise Emission Compliance Regulations:**

~~\_\_\_\_\_ A. Subpart A - General Provisions  
\_\_\_\_\_ B. Subpart B - Inspection and testing~~

#### **R920-51-6. Part 211 -- Rules of Practice:**

~~\_\_\_\_\_ A. Subpart A - General  
\_\_\_\_\_ B. Subpart B - Rulemaking Procedures  
\_\_\_\_\_ C. Subpart C - Waivers  
\_\_\_\_\_ D. Subpart D - Emergency Orders~~

\_\_\_\_\_ E. Subpart E - Miscellaneous Safety - Related Proceedings and Inquiries

\_\_\_\_\_ F. Subpart F - Interim Procedures for the Review of Emergency Orders

**R920-51-7. Part 212 - State Safety Participation Regulations.**

\_\_\_\_\_ A. Subpart A - General

\_\_\_\_\_ B. Subpart B - State/Federal Roles

\_\_\_\_\_ C. Subpart C - State Inspection Personnel

\_\_\_\_\_ D. Subpart D - Grants in Aid

**R920-51-8. Part 213 - Track Safety Standards.**

\_\_\_\_\_ A. Subpart A - General

\_\_\_\_\_ B. Subpart B - Roadbed

\_\_\_\_\_ C. Subpart C - Track Geometry

\_\_\_\_\_ D. Subpart D - Track Structure

\_\_\_\_\_ E. Subpart E - Track Appliances and Track Related Devices

\_\_\_\_\_ F. Subpart F - Inspections

**R920-51-9. Part 215 - Railroad Freight Car Safety Standards.**

\_\_\_\_\_ A. Subpart A - General

\_\_\_\_\_ B. Subpart B - Freight Car Components

\_\_\_\_\_ C. Subpart C - Restricted Equipment

\_\_\_\_\_ D. Subpart D - Stenciling

**R920-51-10. Part 216 - Special Notice and Emergency Order Procedures - Railroad Track, Locomotive and Equipment.**

\_\_\_\_\_ A. Subpart A - General

\_\_\_\_\_ B. Subpart B - Special Notice for Repair

\_\_\_\_\_ C. Subpart C - Emergency Order - Track

**R920-51-11. Part 217 - Railroad Operating Rules.**

\_\_\_\_\_ A. Subpart A - General

**R920-51-12. Part 218 - Railroad Operating Rules.**

\_\_\_\_\_ A. Subpart A - General

\_\_\_\_\_ B. Subpart B - Blue Signal Protection of Workmen

\_\_\_\_\_ C. Subpart C - Protection of Trains and Locomotives

**R920-51-13. Part 220 - Radio Standards and Procedures.**

\_\_\_\_\_ A. Subpart A - General

\_\_\_\_\_ B. Subpart B - Radio Procedures

\_\_\_\_\_ C. Subpart C - Train Orders

**R920-51-14. Part 221 - Rear End Marking Device - Passenger, Commuter and Freight Trains.**

\_\_\_\_\_ A. Subpart A - General

\_\_\_\_\_ B. Subpart B - Marking Devices

**R920-51-15. Part 223 - Safety Glazing Standards - Locomotives, Passenger Cars and Caboose.**

\_\_\_\_\_ A. Subpart A - General

\_\_\_\_\_ B. Subpart B - Specific Requirements

**R920-51-16. Part 225 - Railroad Accidents/Incidents: Reports Classification, and Investigations.**

\_\_\_\_\_ A. Purpose

\_\_\_\_\_ 1. Applicability

\_\_\_\_\_ 2. Definitions

\_\_\_\_\_ 3. Public examination and use of reports

\_\_\_\_\_ 4. Telephonic reports of certain accidents/incidents

\_\_\_\_\_ 5. Reporting of accidents/incidents

\_\_\_\_\_ 6. Late reports

\_\_\_\_\_ 7. Accident/incidents not to be reported

\_\_\_\_\_ 8. Doubtful cases

\_\_\_\_\_ 9. Primary groups of accidents/incidents

\_\_\_\_\_ 10. Forms

\_\_\_\_\_ 11. Joint operations

\_\_\_\_\_ 12. Recordkeeping

\_\_\_\_\_ 13. Retention of records

\_\_\_\_\_ 14. Penalties

**R920-51-17. Part 228 - Hours of Service of Railroad Employees.**

\_\_\_\_\_ A. Subpart A - General

\_\_\_\_\_ B. Subpart B - Records and Reporting

\_\_\_\_\_ C. Subpart C - Construction of Employee Sleeping Quarters

**R920-51-18. Part 229 - Railroad Locomotive Safety Standards.**

\_\_\_\_\_ A. Subpart A - General

\_\_\_\_\_ B. Subpart B - Inspections and Tests

\_\_\_\_\_ C. Subpart C - Safety Requirements

\_\_\_\_\_ D. Subpart D - Design Requirements

**R920-51-19. Part 230 - Locomotive Inspection.**

\_\_\_\_\_ A. Steam Powered Locomotives

**R920-51-20. Part 231 - Railroad Safety Appliance Standards.**

\_\_\_\_\_ A. Box and other house cars

\_\_\_\_\_ B. Hopper cars and high-side gondolas with fixed ends

\_\_\_\_\_ C. Drop-end high-side gondola cars

\_\_\_\_\_ D. Fixed-end low-side gondola and low-side hopper cars

\_\_\_\_\_ E. Drop-end low-side gondola cars

\_\_\_\_\_ F. Flat cars

\_\_\_\_\_ G. Tank cars with side platforms

\_\_\_\_\_ H. Tank cars without side sills and tank cars with short side sills and end platforms

\_\_\_\_\_ I. Tank cars without end sills

\_\_\_\_\_ J. Caboose cars with platforms

\_\_\_\_\_ K. Caboose cars without platforms

\_\_\_\_\_ L. Passenger-train cars with wide vestibules

\_\_\_\_\_ M. Passenger-train cars with open-end platforms

\_\_\_\_\_ N. Passenger-train cars without end platforms

\_\_\_\_\_ O. Steam locomotives used in switching service

\_\_\_\_\_ P. Specifications common to all steam locomotives

\_\_\_\_\_ Q. Cars of special construction

\_\_\_\_\_ R. Definition of "Right" and "Left"

\_\_\_\_\_ S. Variation in size permitted

\_\_\_\_\_ T. Tank cars without under frames

\_\_\_\_\_ U. Unidirectional passenger-train cars adoptable to van-type semi-trailer use

\_\_\_\_\_ V. Box and other house cars with roofs, 16 feet 10 inches or more above top of rail

\_\_\_\_\_ W. Track motorears (self-propelled 4-wheel cars which can be removed from the rails by men)

\_\_\_\_\_ X. Pushcars

\_\_\_\_\_ Y. Box and other house cars without roof hatches

\_\_\_\_\_ Z. Box and other house cars with roof hatches

\_\_\_\_\_ AA. Road locomotives with corner stairways

~~AB. Locomotives used in switching service~~

**R920-51-21. Part 232 - Railroad Power Brakes and Drawbars.**

- ~~A. Power brakes; minimum percentage~~
- ~~B. Drawbars; standard height~~
- ~~C. Power brakes and appliances for operating power-brake systems~~
- ~~D. Rules for Inspection, Testing and Maintenance of Air Brake Equipment~~
- ~~E. General rules; locomotives~~
- ~~F. Train air brake system tests~~
- ~~G. Initial terminal road train airbrake tests~~
- ~~H. Road train and intermediate terminal train airbrake tests~~
- ~~I. Inbound brake equipment inspection~~
- ~~J. Double heading and helper service~~
- ~~K. Running tests~~
- ~~L. Freight and passenger train car brakes~~
- ~~M. Appendix Specifications and requirements for power brakes and appliances for operating power-brake systems for freight service~~

**R920-51-22. Part 233 - Signal Systems Reporting Requirements.**

- ~~A. Scope~~
  - ~~1. Application~~
  - ~~2. Accidents resulting from signal failure~~
  - ~~3. Signal failure reports~~
  - ~~4. Annual reports~~
  - ~~5. Civil penalty~~
  - ~~6. Criminal penalty~~

**R920-51-23. Part 235 - Instructions Governing Applications for Approval of a Discontinuance or Material Modification for a Signal System.**

- ~~A. Scope~~
  - ~~1. Discontinuance or modification requiring filing of application~~
  - ~~2. Discontinuance or modification not requiring filing of application~~
  - ~~3. Form of application~~
  - ~~4. Contents of application~~
  - ~~5. Additional required information-prints~~
  - ~~6. Filing procedure~~
  - ~~7. Notice~~
  - ~~8. Protests~~

**R920-51-24. Part 236 - Installation, Specification, Maintenance, and Repair of Systems, Devices and Appliances.**

- ~~A. Applicability of this part, relief and instructions governing applications for relief~~
- ~~B. Subpart A - Rules and Instructions: All Systems~~
- ~~C. Subpart B - Automatic Block Signal System~~
- ~~D. Subpart C - Interlocking~~
- ~~E. Subpart D - Traffic Control Systems~~
- ~~F. Subpart E - Automatic Train Stop, Train Control and Cab Signal Systems~~
- ~~G. Subpart F - Dragging Equipment and Slide Detectors and Other Similar Protective Devices~~
- ~~H. Subpart G - Definitions~~

**KEY: railroads, safety regulation**

**Date of Enactment or Last Substantive Amendment: 1987**

**Notice of Continuation: August 1, 2012**

**Authorizing, and Implemented or Interpreted Law: 72-1-201; 54-4-14]**

## Transportation, Preconstruction R930-3 Highway Noise Abatement

### NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42009

FILED: 08/11/2017

### RULE ANALYSIS

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The purpose of this rule is to allow the Department of Transportation to address highway noise impacts and to determine the conditions under which noise abatement may be approved. The Department has determined the rule must be amended because changes are needed for clarity and to provide the public with greater opportunity for noise abatement.

**SUMMARY OF THE RULE OR CHANGE:** Conditions that must exist before the Department will install noise abatement devices are changed to provide the public with greater opportunity for noise abatement.

**STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE:** Section 72-1-201 and Section 72-6-111 and Section 72-7-101

### ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The Department does not anticipate that this amendment to the rule will result in any additional cost or a saving to the state's budget. It is a minor change that accommodates public efforts to seek noise abatement. The amendment may result in additional cost to the Department, but those additional costs will be de minimus and will likely be offset by savings due to decreased complaints.

♦ **LOCAL GOVERNMENTS:** The Department does not anticipate that this amendment to the rule will result in any additional cost or a saving to the budgets of local governments. The amendment does not apply to local governments and should not affect their budgets in any way.

♦ **SMALL BUSINESSES:** The Department does not anticipate that this amendment to the rule will result in any additional cost or a saving to the budgets of small businesses. The amendment is focused on assisting the public as a whole and not small businesses specifically, and should not affect their budgets in any way.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: The Department does not anticipate that this amendment to the rule will result in any additional cost or a saving to the budgets of persons other than small businesses, businesses, or local government entities. The amendment is focused on providing a benefit for the public as a whole and, and should not affect the budgets of persons other than small businesses, businesses, or local government entities in any way.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons should benefit from this amendment to the rule by providing all persons with greater opportunity for noise abatement. The amendment should result in no cost whatsoever for affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule amendment will have no fiscal impact on businesses.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 TRANSPORTATION  
 PRECONSTRUCTION  
 CALVIN L RAMPTON COMPLEX  
 4501 S 2700 W  
 SALT LAKE CITY, UT 84119-5998  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ◆ Christine Newman by phone at 801-965-4026, by FAX at 801-965-4338, or by Internet E-mail at [cnewman@utah.gov](mailto:cnewman@utah.gov)  
 ◆ James Palmer by phone at 801-965-4000, by FAX at 801-965-4338, or by Internet E-mail at [jimpalmer@utah.gov](mailto:jimpalmer@utah.gov)  
 ◆ Linda Hull by phone at 801-965-4253, or by Internet E-mail at [lhull@utah.gov](mailto:lhull@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/02/2017

THIS RULE MAY BECOME EFFECTIVE ON: 10/09/2017

AUTHORIZED BY: Carlos Braceras, Executive Director

**R930. Transportation, Preconstruction.**  
**R930-3. Highway Noise Abatement.**  
**R930-3-1. Purpose and Authority.**

The purpose of this rule is to allow UDOT to address highway noise impacts and to determine the conditions under which noise abatement may be approved. This rule is authorized by the grant of rulemaking authority found in Section 72-6-111. This rule is consistent with the Federal Highway Administration's Procedures for Abatement of Highway Traffic Noise and Construction Noise, 23 CFR 772 (April 1, 2011), which is hereby adopted and incorporated by reference.

**R930-3-2. Definitions.**

- (1) "Existing Noise Level" means the noise level, Leq, resulting from the natural and mechanical sources and human activity, considered to be usually present in a particular area.
- (2) "Design Noise Level" means the noise level, Leq, calculated for the worst traffic noise conditions likely to occur on a regular basis using a method approved by FHWA.
- (3) "Type I Project" means a highway construction project that is related to an increase in traffic noise - construction of a highway on new location or the physical alteration of an existing highway which substantially changes the alignment or increases the number of through-traffic lanes or the addition of auxiliary lanes or interchange ramps.
- (4) "Type II Project" means a proposed highway project strictly for noise abatement on an existing highway.
- ~~[(5) "Type III Project" means a project that does not meet the classification of a Type I project or a Type II project. Type III projects do not require a noise analysis.]~~
- ~~[(6)5] "UDOT" means Utah Department of Transportation.~~
- ~~[(7)6] "FHWA" means Federal Highway Administration.~~
- ~~[(8)7] "dBA" means decibels of sound expressed or measured using the "A" weighting scale of a sound-pressure level meter.~~
- ~~[(9)8] "Leq" means the equivalent (average) sound level reported in units of dBA.~~
- ~~[(10)9] "AASHTO" means American Association of State Highway and Transportation Officials.~~

**R930-3-3. Applicability.**

- (1) Type I Projects. Noise abatement shall be considered for Type I projects where noise impacts are identified. A new or proposed subdivision or other development must have a formal building permit before the issuance of the final environmental decision document to be considered for noise abatement.
- (2) Type II Projects. UDOT does not provide a noise retrofit (Type II) program to construct noise abatement measures along existing state transportation facilities.

**R930-3-4. Noise Impact Determination.**

- A traffic noise impact occurs, for purposes of this policy, when either of the following conditions exists at a sensitive land use:
- (1) The design noise level is greater than or equal to the UDOT Noise Abatement Criterion (NAC) in Table 1 for each corresponding land use category; or
  - (2) The design noise level substantially exceeds (ten dBA or more) the existing noise level.

**R930-3-5. Noise Abatement Objective.**

When noise abatement measures are being considered, every reasonable effort shall be made to obtain substantial noise reductions consistent with Department procedures.

**R930-3-6. Noise Abatement Conditions.**

- In order to be considered for noise abatement, all of the following conditions must be met:
- (1) ~~[A-n]~~Noise abatement ~~[device]~~shall not be installed where it will create a hazard or violate design standards. Specifically, noise abatement walls shall not be added within the highway clear

zone as defined in the AASHTO Roadside Design Guide [~~unless a safety barrier already exists~~];

(2) At least ~~eight~~ seven dBA of noise reduction must be achievable at ~~impacted~~ 35% of front row receptors [~~nearest the highway~~]; and

(3) Noise abatement measures must be cost effective.

(a) For residential areas (Category B, Table 1), Cost effectiveness is based on the cost of abatement divided by the number of benefited receptors. Benefited receptors must be considered in determining a noise barrier's cost per receptor regardless of whether or not they were identified as impacted. A benefited receptor is any impacted or non-impacted receptor that gets a noise reduction of ~~[8]~~ 5 dBA or more as a result of the noise barrier. The maximum cost used to determine reasonableness to provide noise abatement is listed in the Noise Abatement Procedures. This cost may be periodically reviewed by the Department for reasonableness and updated, as needed.

(b) For non-residential areas (Category A, C, D or E, Table 1): Cost effectiveness depends on the height of noise wall required and corresponding length of frontage. In any case, a reasonable cost for noise abatement will not exceed the cost effectiveness criteria listed in the Noise Abatement Procedures section of the UDOT Noise Policy.

#### **R930-3-7. Declaration of Intent.**

Environmental study documents will indicate those areas where noise impacts are projected and areas where abatement appears reasonable and feasible. A final decision on the installation of abatement measures will be made after completing final design and the balloting process.

#### **R930-3-8. Public Involvement.**

(1) As part of the final design phase of projects, the Department needs to establish whether property owners and residents are in favor of noise abatement measures. This process involves sending ballots to the following groups so they can indicate their preference for or against noise abatement measures:

(a) All benefited receptors (property owners and residents/renters). A benefited receptor is one that would receive a reduction of ~~[8]~~ 5 dBA or more as a result of noise abatement; and

(b) Receptors that border ~~and~~ or are directly adjacent to the end of a proposed noise wall that are not, by definition, benefited by the wall.

(2) The number of votes is established as follows:

(a) Owner occupied residences: The owner will have 1 vote.

(b) Rental homes, multi-family residences and apartments: The owner will have 1 vote per unit and the resident/renter will have 1 vote for the unit.

(c) Day care centers, hospitals, libraries, medical facilities, parks, picnic areas, places of worship, playgrounds, public meeting rooms, public or nonprofit institutional structures: The owner will have 1 vote.

(d) Commercial/industrial businesses: The owner will have 1 vote for the unit and, if applicable, the tenant will have 1 vote for the unit.

(e) Mobile home parks: The mobile home owner will have 1 vote. The lot owner, if different than the home owner, will have 1 vote.

(3) Properties owned by UDOT - It is the policy of UDOT to abstain from voting as a receptor and these votes will not be

calculated in the denominator of total votes described in assessing ballots.

~~([3]4)~~ Assessing ballots - When votes are counted, property owners' votes will receive a multiplier factor of 5 compared to residents (non-owners) factor of 1.

(a) Noise abatement will only be recommended if ~~75%~~ 75 percent of votes counted, favor noise abatement. The denominator used to calculate this percentage will equal the total number of votes. In addition, at least ~~[50%]~~ 75 percent of the total number of completed ballots must be returned to adequately assess if noise abatement measures are desired. If less than ~~[50]~~ 75 percent of ballots are returned after balloting efforts are completed, then noise abatement measures will be deemed not reasonable.

(b) Ballots sent by mail are deemed by the Department as "due diligence" in notifying the affected property owners and residents/renters of possible noise mitigation measures in their area. Ballots will be sent by regular mail to each property owner of record and each residing household/resident. Each ballot will include a deadline for return to the Department. For ballots sent but not received by the deadline, a second ballot will be sent by Registered Mail to those who have not returned a ballot.

(c) If the voting process results in a decision not to construct noise abatement, the area will not be considered for noise abatement unless a future transportation project falls under the guidelines of a Type I Project.

#### **R930-3-9. Coordination with Local Officials.**

For Type I Projects, the Department will inform local officials of noise compatible planning concepts and an estimate of future noise levels on undeveloped lands or properties within the project limits.

#### **R930-3-10. Local Government Participation.**

In instances where noise abatement has already been deemed feasible and reasonable, a third party such as a local municipality, may contribute funds to make functional or aesthetic enhancements to a noise abatement feature.

#### **R930-3-11. Projects Funded From Other Sources.**

The Utah Code authorizes the Department to construct and maintain noise abatement measures along state highways in cases where the cost for the noise abatement is provided by citizens, adjacent property owners, developers, or local governments, and meeting other established criteria. These cases may be treated as a special application of Paragraph R930-3-10, in which the Department may design, build, and maintain the abatement measure, and the local government agency shall pay the Department for all preliminary engineering, ~~and~~ construction, and maintenance costs.

#### **R930-3-12. Construction Off Right-of-Way.**

Normally, noise ~~walls~~ barriers (walls or berms) built pursuant to this rule will be constructed within Department right-of-way and owned and maintained by the Department. There are cases in which Department right-of-way is not the most prudent location for noise barriers, yet noise abatement ~~[can be very]~~ is still feasible and reasonable if built on adjacent property or adjacent public right-of-way. In these cases:

(1) The Department's cost is limited to normal cost for abatement on Department right-of-way.



(2) In no case shall the Department construct a noise barrier unless the adjacent property owners allow access and easements as necessary in order to construct and maintain the barrier.

TABLE 1- UDOT Noise Abatement Criteria (NAC)  
(Hourly A- Weighted Sound Level decibels (dB(A)))

Activity Category	UDOT Criteria(1) Leq (h)	Evaluation Location	Activity Description
A	56	Exterior	Lands on which serenity and quiet are of extraordinary significance and serve an important public need and where the preservation of those qualities is essential if the area is to continue to serve its intended purpose.
B	66	Exterior	Residential
C	66	Exterior	Active sports areas, amphitheaters, auditoriums, campgrounds, cemeteries, day care centers, hospitals, libraries, medical facilities, parks, picnic areas, places of worship, playgrounds, public meeting rooms, public or nonprofit institutional structures, radio studios, recording studios, recreation areas, Section 4(f) sites, schools, television studios, trails and trail crossings.

D	51	Interior	Auditoriums, day care centers, hospitals, libraries, medical facilities, places of worship, public meeting rooms, public or nonprofit institutional structures, radio studios, recording studios, schools, and television studios.
E	71	Exterior	Hotels, motels, offices, restaurants/bars, and other developed lands, properties or activities not included in A-D or F.
F	No Limit	-	Agriculture, airports, bus yards, emergency services, industrial, logging, maintenance facilities, manufacturing, mining, rail yards, retail facilities, shipyards, utilities (water resources, water treatment, electrical), and warehousing.
G	No Limit	-	Undeveloped lands that are not permitted.

(1) Hourly A-weighted sound level in decibels reflecting a 1 dBA "approach" value below 23 CFR 772 values\_

**KEY: transportation, barriers, traffic noise abatement, highways**  
**Date of Enactment or Last Substantive Amendment: ~~February 7, 2012~~ 2017**  
**Notice of Continuation: October 25, 2016**  
**Authorizing, and Implemented or Interpreted Law: 72-1-201; 72-7-101; 72-6-111**

**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 October 2, 2017.

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 Office 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 Office of Administrative Rules.

From the end of the 30-day waiting period through December 30, 2017, an agency may notify the Office 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 Office 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**

**Public Service Commission,  
Administration  
R746-360-4  
Application of Fund Surcharges to  
Customer Billings**

**NOTICE OF CHANGE IN PROPOSED RULE**

DAR FILE NO.: 41644

FILED: 08/15/2017

**RULE ANALYSIS**

**PURPOSE OF THE RULE OR REASON FOR THE CHANGE:** The reason for the change is to respond to comments submitted during, and following, the comment period for the original amendment.

**SUMMARY OF THE RULE OR CHANGE:** The term "connection" is defined by reference to Subsection 54-8b-15(1)(c). Terminology is introduced to foster concision within the rule. Language regarding an end-user surcharge as the funding mechanism for the Utah Universal Service Fund (UUSF) is modified to clarify that the surcharge may be included in an all-inclusive billing plan. Where a provider administers a multi-line service, the provider is required to apply the surcharge, on a monthly basis, to the total number of concurrent real-time voice communication call sessions that end-users can place to or receive from the public switched telephone network. The surcharge may be waived for any end-user who is paying a similar surcharge to a different state. (EDITOR'S NOTE: The original proposed amendment upon which this change in proposed rule (CPR) was based was published in the June 1, 2017, issue of the Utah State Bulletin, on page 180. 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 CPR and the proposed amendment 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:** Section 54-3-1 and Section 54-4-1 and Section 54-8b-15

**ANTICIPATED COST OR SAVINGS TO:**

♦ **THE STATE BUDGET:** The Public Service Commission (PSC) and the Division of Public Utilities have been administering the UUSF for many years and have the budget to continue doing so. The changes proposed to the surcharge mechanism through the original filing and this change to proposed rule will not have a fiscal impact on the state budget.

♦ **LOCAL GOVERNMENTS:** Local governments are not required to comply with or enforce the rules through which the

UUSF is funded. No fiscal impact to local government is anticipated.

♦ **SMALL BUSINESSES:** The analysis set forth in the original filing is unaffected by this change to proposed rule. That analysis is as follows: "Small businesses that provide access lines will be required to adjust their billing in order to assess and remit a per-access line surcharge (as opposed to remitting a percentage of their revenues). To comply, these businesses might need to change or modify their billing software. All such costs were considered by the Legislature in determining to allow migration to a per-connection surcharge. Further, such costs will vary and cannot be estimated by the PSC. However, the PSC notes that most of the small businesses affected by this rule have historically assessed a per-access line surcharge in order to fund a program that provides telephony assistance to individuals who are deaf, hard of hearing, or severely speech challenged. Therefore, the PSC anticipates that, for the majority of affected businesses, the migration from a revenue-based remittance to a connection-based remittance will not pose a meaningful fiscal burden."

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The analysis set forth in the original filing is unaffected by this change to proposed rule. That analysis is as follows: "Customers of businesses that provide access lines will be charged \$0.36 per month per access line."

**COMPLIANCE COSTS FOR AFFECTED PERSONS:** The analysis set forth in the original filing is unaffected by this change to proposed rule. That analysis is as follows: "To comply, affected persons must collect from their customers and remit to the PSC a monthly per-connection surcharge. Providers of access lines will need to obtain or modify billing software accordingly. The associated costs will vary and cannot be anticipated. However, where most providers have historically collected a per-connection surcharge to comply with other statutory requirements, it is anticipated that the associated costs will be minimal."

**COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:** The comments provided in the original filing are unaffected by this change to proposed rule. Those comments are as follows: "As stated in the rule analysis, the fiscal impact to businesses will result from IT programming or software that might be necessary in order to comply with a per-connection surcharge requirement rather than a revenue-based remittance requirement. It is anticipated that the conversion costs will be minimal and well within the regulatory budget of Utah's access line providers."

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

PUBLIC SERVICE COMMISSION  
ADMINISTRATION  
HEBER M WELLS BLDG  
160 E 300 S

SALT LAKE CITY, UT 84111-2316  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Jennie Jonsson by phone at 801-530-6763, or by Internet E-mail at [jjonsson@utah.gov](mailto:jjonsson@utah.gov)  
 ♦ Sheri Bintz by phone at 801-530-6714, by FAX at 801-530-6796, or by Internet E-mail at [sbintz@utah.gov](mailto:sbintz@utah.gov)

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 10/02/2017

THIS RULE MAY BECOME EFFECTIVE ON: 10/09/2017

AUTHORIZED BY: Jennie Jonsson, Administrative Law Judge

**R746. Public Service Commission, Administration.**  
**R746-360. Universal Public Telecommunications Service Support Fund.**  
**R746-360-4. Application of Fund Surcharges to Customer Billings.**

(1)(a) "Access line" is defined at Utah Code Subsection 54-8b-2(1).

(b) For purposes of applying the statutory definition of "access line," the ~~["functional equivalent of a circuit-switched connection from an end-user to the public switched network" means equipment or technology that allows an end-user to place or receive a real-time voice communication]~~ term "connection" is defined at Utah Code Subsection 54-8b-15(1)(c).

(c)(i) Providers of access lines and providers ~~of functionally equivalent~~ connections are hereafter referred to jointly as "providers."

(ii) Access lines and connections are hereafter referred to jointly as "access lines."

(2) Through ~~July~~ December 31, 2017, providers shall remit to the Commission 1.65 percent of billed intrastate retail rates.

(3) ~~As of January 1, 2018, the Utah Universal Public Telecommunications Service Support Fund (UUSF) shall be funded as follows.~~

(a) ~~[As of August 1, 2017, and u]~~Unless Subsection R746-360-4(5) applies, providers shall collect from their end-user customers \$0.36 per month per access line that, as of the last calendar day of each month, has a primary place of use:

~~(i) that has a physical endpoint within the State of Utah; or~~  
~~(ii) as to which the provider has record of an associated address] within the State of Utah.~~

(b)(i) "Primary place of use means the street address representative of where the customer's use of the telecommunications service primarily occurs.

(ii) A provider of mobile telecommunications service shall consider the customer's primary place of use to be the customer's residential street address or primary business street address.

~~(iii) A provider of non-mobile telecommunications service shall consider the customer's primary place of use to be:~~

~~(A) the customer's residential street address or primary business street address; or~~

~~(B) the customer's registered location for 911 purposes.~~

~~[(b)](c)(i) The surcharge shall apply ~~[directly]~~as an explicit charge to each end-user~~[as a separate charge and shall not be included in, nor paid from, the provider's rates or telecommunications revenues].~~~~

~~(ii) A provider may include the surcharge in an all-inclusive rate plan.~~

~~(d) A provider that offers a multi-line service shall apply the surcharge to each concurrent real-time voice communication call session that an end-user can place to or receive from the public switched telephone network.~~

(4)(a) A provider shall remit to the Commission no less than 98.69 percent of its total monthly surcharge collections.

(b) A provider may retain a maximum of 1.31 percent of its total monthly surcharge collections to offset the costs of administering this rule.

(5)(a) A provider may omit the UUSF surcharge in billing an access line that:

~~(i) is described in Subsection R746-360-4(3); and~~  
~~(ii) generates revenue that is subject to a universal service fund surcharge in a state other than Utah.~~

~~(b)(i) An end-user may petition the Commission for a waiver of the surcharge set forth in Subsection R746-360-4(3). Any such petition shall be adjudicated as an informal administrative proceeding.~~

~~[(b)](ii) An end-user that petitions for a waiver of the surcharge has the burden to provide~~[billing records or other substantial documentary evidence]~~:~~

~~(A) call records demonstrating that, at all times and continuously during the six calendar months preceding the date of petition, the access line being assessed was not used to access Utah intrastate telecommunications services; or~~

~~(B) billing records demonstrating that the access line is assessed a universal service fund surcharge in a state other than Utah.~~

~~(iii) A provider may not petition the Commission under Subsection R746-360-4(5)(b) for a waiver of the surcharge on behalf of:~~

~~(A) a customer; or~~

~~(B) a group of customers.~~

~~[(6)(a)](iv)(A) An exemption granted under Subsection R746-360-4(5)(b) is valid for a period of one calendar year from the date of issuance.~~

~~[(b)](B) Following the expiration of an exemption, and upon notice from the Commission, the end-user's provider shall assess the UUSF surcharge each month, until such time as the provider is notified by the Commission that a renewed exemption has been granted.~~

~~[(e)](C) Any assessment remitted to the Commission between the expiration of an exemption and the approval of a petition for renewal of the exemption shall be non-refundable.~~

~~[(f)](D)(I) The end-user shall bear the sole responsibility to know the expiration date of an exemption granted~~

to the end-user and to ensure that an application for renewal is filed at least 30 days prior to the date of expiration.

~~(ii)~~(II) At any proceeding to review a petition for renewal of an exemption, evidence that the end-user was unaware of the expiration date shall be inadmissible.

~~(iii)~~(III) A petition for renewal of an exemption is deemed granted unless the Commission issues an order of denial within 30 days of the date on which the petition is filed.

**KEY: affordable base rate, public utilities, telecommunications, universal service fund**

**Date of Enactment or Last Substantive Amendment: 2017**

**Notice of Continuation: November 13, 2013**

**Authorizing, and Implemented or Interpreted Law: 54-3-1; 54-4-1; 54-8b-15**

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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 <https://rules.utah.gov/>. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

**REVIEWS** are governed by Section 63G-3-305.

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## Agriculture and Food, Plant Industry **R68-15** Quarantine Pertaining to Japanese Beetle, (*Popillia Japonica*)

### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 41997  
FILED: 08/03/2017

### 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 Subsection 4-2-103(1)(k)(ii) which authorizes the Department of Agriculture and Food to establish and enforce quarantines, as well as Section 4-35-109 which authorizes the Department to make rules necessary to enforce the Insect Infestation Emergency Control Act.

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 Department has received 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 is necessary to protect the agricultural industry in the state of Utah from the infestation of the Japanese Beetle. The rule prohibits the importation of high risk items from states that are known to have a quarantine in place for the Japanese Beetle. Therefore, this rule should be continued.

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

AGRICULTURE AND FOOD  
PLANT INDUSTRY  
350 N REDWOOD RD  
SALT LAKE CITY, UT 84116-3034  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Melissa Ure by phone at 801-538-4976, or by Internet E-mail at [mure@utah.gov](mailto:mure@utah.gov)
- ◆ Robert Hougaard by phone at 801-538-7187, by FAX at 801-538-7189, or by Internet E-mail at [rhougaard@utah.gov](mailto:rhougaard@utah.gov)
- ◆ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at [sericson@utah.gov](mailto:sericson@utah.gov)

AUTHORIZED BY: LuAnn Adams, Commissioner

EFFECTIVE: 08/03/2017

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## Education, Administration **R277-419** Pupil Accounting

### FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42013  
FILED: 08/14/2017

### 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 53A-1-401 allows the

Utah State Board of Education (Board) to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and Subsection 53A-1-402(1)(e) directs the Board to establish rules and standards regarding cost-effectiveness; school budget formats; and financial, statistical, and student accounting requirements.

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 comment has 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 R277-419 continues to be necessary because it provides procedures used in apportioning and distributing state funds for education. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 EDUCATION  
 ADMINISTRATION  
 250 E 500 S  
 SALT LAKE CITY, UT 84111-3272  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at [angie.stallings@schools.utah.gov](mailto:angie.stallings@schools.utah.gov)

AUTHORIZED BY: Angela Stallings, Deputy Superintendent, Policy and Communication

EFFECTIVE: 08/14/2017

**Education, Administration  
 R277-700**

**The Elementary and Secondary School  
 General Core**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
 OF CONTINUATION**  
 DAR FILE NO.: 42014  
 FILED: 08/14/2017

**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 53A-1-402(1) directs

the Utah State Board of Education (Board) to make rules regarding competency levels, graduation requirements, curriculum, and instruction requirements; Section 53A-1-402.6 directs the Board to establish Core Standards in consultation with local education agency (LEA) boards and superintendents and directs LEA boards to adopt local curriculum and to design programs to help students master the General Core; Title 53A, Chapter 1, Part 12, Career and College Readiness Mathematics Competency, directs the Board to establish college and career mathematics competency standards; Section 53A-13-109.5 requires the Board to provide rules related to a basic civics test; and Section 53A-1-401 allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

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 comment has 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 R277-700 continues to be necessary because it provides minimum Core Standards and General Core requirements, as required by state law, and to establish responsibility for mastery of Core Standard requirements. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:  
 EDUCATION  
 ADMINISTRATION  
 250 E 500 S  
 SALT LAKE CITY, UT 84111-3272  
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
 ♦ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at [angie.stallings@schools.utah.gov](mailto:angie.stallings@schools.utah.gov)

AUTHORIZED BY: Angela Stallings, Deputy Superintendent, Policy and Communication

EFFECTIVE: 08/14/2017

**Education, Administration  
 R277-703  
 Centennial Scholarship for Early  
 Graduation**



**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 42015  
FILED: 08/14/2017

**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 53A-15-102 requires the Utah State Board of Education (Board) to make payments to a public school student who graduates early; Section 53A-1-402 authorizes the Board to make rules regarding competency levels, graduation requirements, curriculum, and instruction requirements; and Section 53A-1-401 allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

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 comment has 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 R277-703 continues to be necessary because it provides standards and outlines the procedures for a student to qualify for an early graduation centennial scholarship. Therefore, this rule should be continued.

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

EDUCATION  
ADMINISTRATION  
250 E 500 S  
SALT LAKE CITY, UT 84111-3272  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Angela Stallings by phone at 801-538-7656, by FAX at 801-538-7768, or by Internet E-mail at [angie.stallings@schools.utah.gov](mailto:angie.stallings@schools.utah.gov)

AUTHORIZED BY: Angela Stallings, Deputy Superintendent, Policy and Communication

EFFECTIVE: 08/14/2017

Health, Health Care Financing  
**R410-14**  
Administrative Hearing Procedures

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 42016  
FILED: 08/14/2017

**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 26-1-24 authorizes the Department of Health to hold hearings and to administer the hearing process. In addition, 42 CFR 431, Subpart E, sets forth notice requirements and hearing procedures for the Department to implement.

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 Department did not receive any written or oral comments regarding 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 Department will continue this rule because it implements standard hearing procedures that include provisions for notification, reinstatement and continuation of services, hearing availability, recordings, telephonic hearings, travel costs, and witness testimony.

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

HEALTH  
HEALTH CARE FINANCING  
CANNON HEALTH BLDG  
288 N 1460 W  
SALT LAKE CITY, UT 84116-3231  
or at the Office 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](mailto:cdevashrayee@utah.gov)

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 08/14/2017

Natural Resources, Wildlife Resources  
**R657-12**  
Hunting and Fishing Accommodations  
for People with Disabilities

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 42024  
FILED: 08/15/2017

**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 23-20-12 authorizes the Wildlife Board to adopt rules specifying terms and conditions whereby an individual, who is validly licensed to hunt may be authorized to hunt from a vehicle. Section 23-19-36 allows a resident who is blind, paraplegic, or permanently disabled to receive a license to fish upon satisfactory proof to the Division of Wildlife Resources. This rule specifies terms, conditions and the process for providing proof of a disability, respectively.

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 supporting or opposing Rule R657-12 were received since September 2012, when the rule was last reviewed.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The standards and procedures adopted in Rule R657-12 have worked well in providing fairness to all concerned individuals. The provisions of this rule have provided an effective and efficient process for persons to obtain a certificate of registration for taking wildlife from a vehicle and persons to obtain a fishing license as authorized under Subsection 23-19-36(1). Continuation of this rule is necessary for continued success of the program.

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

NATURAL RESOURCES  
WILDLIFE RESOURCES  
1594 W NORTH TEMPLE  
SALT LAKE CITY, UT 84116-3154  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Staci Coons by phone at 801-538-4718, by FAX at 801-538-4709, or by Internet E-mail at stacicoons@utah.gov

AUTHORIZED BY: Mike Fowlks, Deputy Director

EFFECTIVE: 08/15/2017

**Public Safety, Driver License****R708-47****Emergency Contact Database****FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION**

DAR FILE NO.: 42005  
FILED: 08/07/2017

**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 53-3-205.6 requires the Driver License Division to establish a database of the emergency contacts of a person who holds a license or identification card. The intent of the database is to allow law enforcement to make contact with up to two emergency contacts in case of a motor vehicle accident or other emergency situation where a person that holds a license or identification card is unable to communicate with law enforcement. The information included in the database shall only be used for emergency situations as outlined in the statute and may not be used for criminal investigation purposes.

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.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Subsection 53-3-205.6(4) authorizes the Division to make rules regarding procedures to implement the database, and specify a method for information to be added or changed in the database and additional rules required to operate the database. Therefore, this rule should be continued.

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

PUBLIC SAFETY  
DRIVER LICENSE  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W 3RD FL  
SALT LAKE CITY, UT 84119-5595  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at kgibb@utah.gov  
♦ Marge Dalton by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

AUTHORIZED BY: Chris Caras, Director

EFFECTIVE: 08/07/2017

**Public Safety, Driver License  
R708-48**

**Ignition Interlock System Program**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 42006

FILED: 08/07/2017

**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 53-3-1004 requires the Driver License Division to make rules for an interlock system provider license. The rule is to include requirements concerning locations, equipment requirements, installer qualifications and requirements, previous records of the providers and installers including character and reputation, fee schedules and charges that providers and installers will use. The rule shall outline licensee requirements such as insurance, knowledge of procedures and other provision the commissioner deems necessary. Subsection 53-3-1007(1) requires that an ignition interlock provider must electronically notify the Division of a device installation on a person's vehicle. Subsection 53-3-1007(3) requires an ignition interlock provider to electronically notify the Division if a device is uninstalled. Subsection 53-3-1007(8) requires the Division to establish rules for certification and regulation of ignition interlock system providers, procedures for the system providers to electronically notify the Division and policies and procedures for to administer the program.

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.

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 required under Section 53-3-1004. Ignition interlock systems are required for drivers to reinstate a driver license following the suspension for an alcohol offense. The rule allows for greater definition of the requirements needed by ignition interlock providers that install a system into a drivers vehicle and ensures that qualified licensed installers are performing this function. Therefore, this rule should be continued.

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

PUBLIC SAFETY  
DRIVER LICENSE  
CALVIN L RAMPTON COMPLEX  
4501 S 2700 W 3RD FL  
SALT LAKE CITY, UT 84119-5595  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Kim Gibb by phone at 801-556-8198, by FAX at 801-964-4482, or by Internet E-mail at kgibb@utah.gov  
♦ Marge Dalton by phone at 801-965-4456, by FAX at 801-957-8502, or by Internet E-mail at modalton@utah.gov

AUTHORIZED BY: Chris Caras, Director

EFFECTIVE: 08/07/2017

**School and Institutional Trust Lands,  
Administration  
R850-100**

**Trust Land Management Planning**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT  
OF CONTINUATION**

DAR FILE NO.: 42025

FILED: 08/15/2017

**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 53C-2-201 requires the Director of the School and Institutional Trust Lands Administration to develop rules that describe the planning and opportunity for public participation prior to conducting any agency actions. This rule provides the guidelines for that planning.

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 by the agency regarding this rule since the last five-year notice of review.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: Statute requires that the agency develop rules setting forth planning procedures to be undertaken

regarding trust lands. This rule provides the necessary planning guidelines to ensure that the agency is in compliance with its fiduciary responsibilities and that interested parties are given an opportunity to participate in that planning. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED,  
DURING REGULAR BUSINESS HOURS, AT:  
SCHOOL AND INSTITUTIONAL TRUST LANDS  
ADMINISTRATION  
ROOM 500  
675 E 500 S

SALT LAKE CITY, UT 84102-2818  
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:  
♦ John Andrews by phone at 801-538-5180, by FAX at 801-538-5118, or by Internet E-mail at [jandrews@utah.gov](mailto:jandrews@utah.gov)

AUTHORIZED BY: David Ure, Director

EFFECTIVE: 08/15/2017

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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 Office 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

### Administrative Services

#### Finance

No. 41798 (AMD): R25-7. Travel-Related Reimbursements for State Employees

Published: 07/01/2017

Effective: 08/07/2017

#### Agriculture and Food

##### Plant Industry

No. 41675 (NEW): R68-23. Utah Firewood Quarantine

Published: 06/15/2017

Effective: 08/03/2017

### Corrections

#### Administration

No. 41460 (AMD): R251-305. Visiting at Community Correctional Centers

Published: 05/01/2017

Effective: 08/15/2017

No. 41500 (AMD): R251-706. Inmate Visiting

Published: 05/15/2017

Effective: 08/15/2017

### Education

#### Administration

No. 41768 (AMD): R277-101. Utah State Board of Education Procedures

Published: 07/01/2017

Effective: 08/07/2017

No. 41769 (REP): R277-103. USOE Government Records and Management Act

Published: 07/01/2017

Effective: 08/07/2017

No. 41770 (REP): R277-111. Sharing of Curriculum Materials by Public School Educators

Published: 07/01/2017

Effective: 08/07/2017

No. 41771 (REP): R277-115. Material Developed with State Public Education Funds

Published: 07/01/2017

Effective: 08/07/2017

No. 41772 (NEW): R277-120. Licensing of Material Developed with Public Education Funds

Published: 07/01/2017

Effective: 08/07/2017

No. 41773 (NEW): R277-121. Board Waiver of Administrative Rules

Published: 07/01/2017

Effective: 08/07/2017

No. 41774 (REP): R277-408. Grants for Online Testing

Published: 07/01/2017

Effective: 08/07/2017

No. 41775 (AMD): R277-410. Accreditation of Schools

Published: 07/01/2017

Effective: 08/07/2017

No. 41776 (AMD): R277-460. Distribution of Substance Abuse Prevention Account

Published: 07/01/2017

Effective: 08/07/2017

No. 41777 (REP): R277-467. Distribution of Funds Appropriated for Library Media Materials and Electronic Resources  
 Published: 07/01/2017  
 Effective: 08/07/2017

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 Published: 07/01/2017  
 Effective: 08/07/2017

No. 41779 (AMD): R277-484. Data Standards  
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 Effective: 08/07/2017

No. 41780 (AMD): R277-485. Loss of Enrollment  
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 Published: 07/01/2017  
 Effective: 08/07/2017

No. 41782 (AMD): R277-489. Early Intervention Program  
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 Effective: 08/07/2017

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 Effective: 08/07/2017

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 Effective: 08/07/2017

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 Effective: 08/07/2017

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Effective: 08/31/2017

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Effective: 08/31/2017

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Published: 06/01/2017  
Effective: 08/31/2017

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Published: 06/01/2017  
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Published: 06/01/2017  
Effective: 08/31/2017

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Effective: 08/31/2017

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Effective: 08/15/2017

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BY AGENCY (CODE NUMBER)  
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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, 2017 through August 15, 2017. 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 Office of Administrative Rules (801-538-3003).

A copy of the **RULES INDEX** is available for public inspection at the Office of Administrative Rules (5110 State Office Building, Salt Lake City, UT), or may be viewed online at the Office's web site (<http://www.rules.utah.gov/>).

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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
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R21-1	Transfer of Collection Responsibility of State Agencies	41743	5YR	06/07/2017	2017-13/229
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R994-404	Payment Following Workers' Compensation	41686	5YR	05/19/2017	2017-12/42
R994-405-2	Separations from a Temporary Help Company (THC)	41103	AMD	03/01/2017	2017-1/97
R994-406	Fraud, Fault and Nonfault Overpayments	41687	5YR	05/19/2017	2017-12/43
R994-508	Appeal Procedures	41426	AMD	05/30/2017	2017-8/56

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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	

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<u>accident law</u> Health, Disease Control and Prevention, Laboratory Services	40868	R438-10	REP	01/11/2017	2016-21/46
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	41376	R21-2	5YR	03/17/2017	2017-8/59
	41377	R21-3	5YR	03/17/2017	2017-8/59
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	41775	R277-410	AMD	08/07/2017	2017-13/33
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	41343	R710-8	5YR	03/06/2017	2017-7/88	
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	41680	R746-349-3	NSC	06/13/2017	Not Printed	
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Administrative Services, Fleet Operations	41609	R27-7	AMD	07/11/2017	2017-11/11	
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	41208	R527-300	5YR	01/23/2017	2017-4/75	
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	41594	R982-403-5	NSC	05/23/2017	Not Printed	
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	41249	R671-310	5YR	01/30/2017	2017-4/83
	41250	R671-311	5YR	01/30/2017	2017-4/83
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	41238	R671-316	5YR	01/30/2017	2017-4/84
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	41163	R58-22	5YR	01/12/2017	2017-3/81
	41167	R58-23	5YR	01/12/2017	2017-3/82
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	41371	R70-101	NSC	04/05/2017	Not Printed
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	41139	R590-147	5YR	01/09/2017	2017-3/98
	41922	R590-148	5YR	07/12/2017	2017-15/32
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