

UTAH STATE BULLETIN

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

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The Portable Document Format (PDF) version of the *Bulletin* is the official version. The PDF version of this issue is available at <https://www.rules.utah.gov/>. Any discrepancy between the PDF version and other versions will be resolved in favor of the PDF version.

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://www.rules.utah.gov/>.

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

Office of Administrative Rules, Salt Lake City 84114

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SPECIAL NOTICES

Health Health Care Financing, Coverage and Reimbursement Policy

Notice for May 2018 Medicaid Rate Changes

Effective May 1, 2018, Utah Medicaid will adjust its rates consistent with approved methodologies. Rate adjustments include new codes priced consistent with approved Medicaid methodologies as well as potential adjustments to existing codes. All rate changes are posted to the web and can be viewed at: <http://health.utah.gov/medicaid/stplan/lookup/CoverageLookup.php>.

Health Health Care Financing, Coverage and Reimbursement Policy

Capital Improvement Incentive

The Division of Medicaid and Health Financing (DMHF) will amend Attachment 4.19-D of the Medicaid State Plan to improve the quality of life for patients in Intermediate Care Facilities for Individuals with an Intellectual Disability (ICF/ID).

This change, therefore, allows payment to providers through a capital incentive to improve facilities and equipment that may support an individual's rights to privacy, dignity, respect, and autonomy.

This State Plan Amendment (SPA 18-0004-UT) does not affect total annual expenditures for the Medicaid program.

The SPA is pending approval from the Centers for Medicare and Medicaid Services and the proposed effective date is July 1, 2018.

A copy of this change may be obtained from Craig Devashrayee (801-538-6641), or by writing the Technical Writing Unit, Utah Department of Health, PO Box 143102, Salt Lake City, UT 84114-3102. Comments are welcome at the same address. Copies of the change are also available at local county health department offices.

End of the Special Notices Section

NOTICES OF PROPOSED RULES

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 March 16, 2018, 12:00 a.m., and April 02, 2018, 11:59 p.m. are included in this, the April 15, 2018, 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 May 15, 2018. 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 August 13, 2018, 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.

The Proposed Rules Begin on the Following Page

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

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42727

FILED: 03/28/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of these changes is to clarify some rule language, to add needed subsections, and to delete some unnecessary subsections, so changes in statute, federal requirements, and Rule Committee (Committee) and the Department of Health (Department) decisions can take effect.

SUMMARY OF THE RULE OR CHANGE: These changes will clarify language such as changing the word "screening" to "check", modify the appeal process timing to follow recommendations from the Legislative Auditor's Office, change the requirements for submission of background checks from 10 working days to 0 to follow federal requirements, remove the exceptions for required fingerprinting, and renumber the subsections as needed.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 63G, Chapter 3

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The proposed deletion of the fingerprint exception subsection is expected to have a one-time fiscal impact on the state revenues because 7 out of the 15 currently licensed hourly centers will have to submit fingerprints. There are 70 covered individuals (as reported in our records) whom will have to pay the cost of the fingerprints. The individual cost for a fingerprint is \$37. The expected revenues are a one-time event, and that is why there are no additional costs or benefits in the following years. Any new facilities will have to submit fingerprints as well. However, the Committee cannot anticipate how many, if any, will become licensed or license exempt. The Committee does not anticipate any additional costs or savings due to the other proposed rule changes.

♦ **LOCAL GOVERNMENTS:** These proposed changes are not expected to have any fiscal impact on local governments' revenues or expenditures because there are no licensed hourly centers operated by local governments to whom these changes will affect. There is only one business in the child care industry (NAICS 624410) in Utah operated by a local government, but that facility is exempt from the requirements of this rule.

♦ **SMALL BUSINESSES:** All hourly centers are small businesses. These rule changes are expected to have a one-time fiscal impact on small businesses expenditures because there are seven hourly centers that operate as small businesses to whom the requirement for fingerprints will directly affect. There are 70 covered individuals (as reported in our records) whom will have to pay the cost of the fingerprints. The individual cost for a fingerprint is \$37. All other hourly centers have already complied with this requirement, but will continue to submit and pay for fingerprints for all new covered individuals not because of this change but because of the current rule. The number of new covered individuals these facilities will employ, if any, cannot be calculated because there is no data available. Any new facilities will have to submit fingerprints as well. However, the Committee cannot anticipate how many, if any, will become licensed or license exempt. The Committee does not anticipate any additional costs or savings due to the other proposed rule changes.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These proposed rule changes are not expected to have any fiscal impact on other individuals' revenues or expenditures because only a group of small businesses will be affected by the changes. Currently, there are no persons that are not small businesses to whom these changes will apply.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since fingerprints will be required of any hourly center provider, all new applicants for an hourly center license will be required to pay for fingerprints, with no exceptions, if they have not already done so. The Committee cannot project the number of new applicants, but the number of hourly center providers has remained about the same for the past five years.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes clarify language such as changing the word "screening" to "check", modify the appeal process timing to follow recommendations from the Legislative Auditor's Office, change the requirements for submission of background checks from 10 working days to 0 to follow federal requirements, remove the exceptions for required fingerprinting, and renumber subsections as needed. There is a one-time fiscal impact on small businesses for the cost of submitting fingerprints. There are 7 hourly child care centers with an estimated 70 individuals who will be required to submit fingerprints at a cost of \$37 per person. The minimal cost of the fingerprinting process is balanced out by the need conduct background checks for the health and safety of children receiving care in the affected centers.

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 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 05/15/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/28/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$2,590	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$2,590	\$0	\$0
Fiscal Benefits			
State Government	\$2,590	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$2,590	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts

for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses
 The proposed amendment is not expected to have any fiscal impact on large businesses revenues or expenditures because the 13 large businesses in the child care industry (NAICS 624410) in Utah are either licensed or licensed exempt, and they are already in compliance with the requirements of the current rule. The new requirements will not affect them because the proposed rule changes do not increase or decrease costs for services they currently provide.

Department Head Comments:
 The changes clarify language such as changing the word "screening" to "check", modify the appeal process timing to follow recommendations from the Legislative Auditor's Office, change the requirements for submission of background checks from 10 working days to 0 to follow federal requirements, remove the exceptions for required fingerprinting, and renumber subsections as needed.

There is a one-time fiscal impact on small businesses for the cost of submitting fingerprints. There are 7 hourly child care centers with an estimated 70 individuals who will be required to submit fingerprints at a cost of \$37 per person.

The minimal cost of the fingerprinting process is balanced out by the need conduct background checks for the health and safety of children receiving care in the affected centers.

R381. Health, Child Care Center Licensing Committee.

R381-60. Hourly Child Care Centers.

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]check that may result in a denial from Child Care Licensing.

(4) "Background [Screening]Check Denial" means that an individual has failed the background [screening]check 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) "Business Days/Hours" means the days of the week and times the facility is open for business.

[(7)](8) "Capacity" means the maximum number of children for whom care can be provided at any given time.

[(8)](9) "Caregiver-to-Child Ratio" means the number of caregivers responsible for a specific number of children.

[(9)](10) "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)](11) "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)~~(12) "Child Care Center Licensing Committee" means the Child Care Center Licensing Committee created in the Utah Child Care Licensing Act.

~~(12)~~(13) "Child Care Program" means a person or business that offers child care.

~~(13)~~(14) "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)~~(15) "Conditional Status" means that the provider is at risk of losing their child care license because compliance with licensing rules has not been maintained.

~~(15)~~(16) "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)~~(17) "CPSC" means the Consumer Product Safety Commission.

~~(17)~~(18) "Department" means the Utah Department of Health.

~~(18)~~(19) "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)~~(20) "Director" means a person who meets the director qualifications in this rule, and who assumes the child care program's day-to-day responsibilities for compliance with Child Care Licensing rules.

~~(20)~~(21) "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)~~(22) "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)~~(23) "Facility" means a child care program or the premises approved by the Department to be used for child care.

~~(23)~~(24) "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)~~(25) "Group Size" means the number of children in a group.

~~(25)~~(26) "Guest" means an individual who is not a covered individual and is at the child care facility with the provider's permission.

~~(26)~~(27) "Health Care Provider" means a licensed health professional, such as a physician, dentist, nurse practitioner, or physician's assistant.

~~(27)~~(28) "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)~~(29) "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)~~(30) "Infant" means a child who is younger than 12 months of age.

~~(30)~~(31) "Infectious Disease" means an illness that is capable of being spread from one person to another.

~~(31)~~(32) "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)~~(33) "License" means a license issued by the Department to provide child care services.

~~(33)~~(34) "Licensee" means the legally responsible person or business that holds a valid license from Child Care Licensing.

~~(34)~~(35) "LIS Supported Finding" means background ~~screening~~check information from the Licensing Information System (LIS) database for child abuse and neglect, maintained by the Utah Department of Human Services.

~~(35)~~(36) "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)~~(37) "Over-the-Counter Medication" means medication that can be purchased without a written prescription including herbal remedies, vitamins, and mineral supplements.

~~(37)~~(38) "Parent" means the parent or legal guardian of a child in care.

~~(38)~~(39) "Person" means an individual or a business entity.

~~(39)~~(40) "Physical Abuse" means causing nonaccidental physical harm to a child.

~~(40)~~(41) "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)~~(42) "Preschooler" means a child age 2 through 4 years old.

~~[(42)](43)~~ "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)](44)~~ "Protective Cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of injuries from falls.

~~[(44)](45)~~ "Provider" means the legally responsible person or business that holds a valid license from Child Care Licensing.

~~[(45)](46)~~ "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)](47)~~ "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)](48)~~ "Sanitize" means to use a chemical product to remove soil and bacteria from a surface or object.

~~[(48)](49)~~ "School-Age Child" means a child age 5 through 12 years old.

~~[(49)](50)~~ "Sexual Abuse" means abuse as defined in Utah Code, Title 76-5-404(1).

~~[(50)](51)~~ "Sexually Explicit Material" means any depiction of sexually explicit conduct as defined in Utah Code, Title 76-5b-103(10).

~~[(51)](52)~~ "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.

~~[(52)](53)~~ "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)](54)~~ "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)](55)~~ "Substitute" means a person who assumes a caregiver's duties when the caregiver is not present.

~~[(55)](56)~~ "Toddler" means a child aged 12 through 23 months.

~~[(56)](57)~~ "Unrelated Child" means a child who is not a "related child" as defined in R381-60-2(46).

~~[(57)](58)~~ "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]~~ check.

~~[(58)](59)~~ "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)](60)~~ "Volunteer" means an individual who receives no form of direct or indirect compensation for their service.

~~[(60)](61)~~ "Working Days" means the days of the week the Department is open for business.

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]~~ checks 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)](e)~~ exit doors shall be unlocked from the inside during business hours;

~~[(g)](f)~~ exits shall be clearly identified;

~~[(h)](g)~~ 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)](h)~~ there shall be working smoke detectors that are properly installed on each level of the building; and

~~[(j)](i)~~ 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]~~checks, civil money penalties, and other fees assessed by the Department.

(15) An applicant or provider may appeal any Department decision within ~~[30]~~15 working days of being informed in writing 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]~~check, 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:

(a) have liability insurance, or

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

~~_____ [(+)](11)~~ 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.

~~_____ [(+)](12)~~ 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.

~~[(42)](13)~~ The admission and health assessment form shall:

- (a) be signed by the parent; and
- (b) kept on-site for review by the Department.

~~[(43)](14)~~ 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]~~ensure that all employees and volunteers [to ensure that they are qualified]are supervised, qualified, and trained 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]~~check;

(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]~~check;

(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]~~check;

(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]~~check;

(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]~~check,

(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[-], ~~and~~

(d) not have unsupervised contact with any child in care if the employee is younger than 16 years of age.

(12) Volunteers shall:

- (a) pass a CCL background ~~[screening]~~check, 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]~~check.

(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]~~check,

(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]~~check 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]check~~;

(b) 18 years of age or older shall pass a CCL background ~~[screening]check~~ 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]check~~ 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]check~~, 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;~~

~~—(e)](b) a current first aid and CPR certification, if required in rule; and~~

~~[(d)](c) a six-week record of the times worked each day.~~

R381-60-8. Background [Screenings]Checks.

~~[(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.](1) Before a new covered individual becomes involved with child care in the program, the provider shall:~~

~~—(a) have the individual submit an online background check form,~~

~~—(b) authorize the individual's background check form,~~

~~—(c) pay all required fees, and~~

~~—(d) receive written notice from CCL that the individual passed the background check.~~

~~(2) The provider shall ensure that an online background check form is submitted and authorized, and that background check fees are paid within 10 working days from when a child who resides in the facility turns 12 years old.~~

~~[(2)](3)~~ ~~[Unless an exception is granted in rule, t]~~The provider shall ensure that a CCL background ~~[screening]~~check for each individual age 18 years or older includes fingerprints and fingerprints fees.

~~[(3)](4)~~ The fingerprints shall be prepared by a local law enforcement agency or an agency approved by local law enforcement.

~~[(4)](5)~~ 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)~~ Fingerprints are not required if the covered individual has:

~~_____ (a) previously submitted fingerprints to CCL for a Next Generation, national criminal history check;~~

~~_____ (b) resided in Utah continuously since the fingerprints were submitted; and~~

~~_____ (c) kept their CCL background check current.~~

~~[(6)](7)~~ Background ~~[screenings]~~checks are valid for 1 year and shall be renewed before the last day of the month listed on the covered individual's background ~~[screening]~~check card.

~~[(7)](8)~~ At least 2 weeks before the end of the renewal month that is written on a covered individual's background ~~[screening]~~check card, the provider shall:

~~(a) have the individual submit an online CCL background [screening]check form and fingerprints if not previously submitted,~~

~~(b) authorize the individual's background [screening]check form through the provider portal, 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]~~check 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]~~check was conducted.

(15) The Department may rely on the criminal background ~~[screening]~~check 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]~~check 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]~~fails to pass a CCL background check, including that the individual has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, the ~~[Department may]~~provider shall 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]~~check 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]~~check denial ~~[under the following conditions:~~

~~(a) the background finding is not a felony, and~~
~~(b)]when~~ the Executive Director determines that the nature of the background finding or mitigating circumstances do not pose a risk to children.

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.](2) Poisonous and harmful plants shall be inaccessible to children.~~

~~(3) Sharp objects, edges, corners, or points that could cut or puncture skin shall be inaccessible to children.~~

~~(4) Choking hazards shall be inaccessible to children to children younger than 3 years of age.~~

~~(5) Strangulation hazards such as ropes, cords, chains, and wires attached to a structure and long enough to encircle a child's neck shall be inaccessible to children.~~

~~(6) Tripping hazards such as unsecured flooring, rugs with curled edges, or cords in walkways shall be inaccessible to children.~~

~~(7) 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 shall be inaccessible to children.~~

~~(8) Standing water that measures 2 inches or deeper and 5 by 5 inches or greater in diameter shall be inaccessible to children.~~

~~[(3)](9) 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)](10) 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)](11) 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)](12) 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)](13) Weapons such as paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace shall be inaccessible to children.~~

~~[(8)](14) 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)](15) 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)](16) 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)](17) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.~~

~~[(12)](18) Highchairs shall have T-shaped safety straps or devices that are used whenever a child is in the chair.~~

~~[(13)](19) Infant walkers with wheels shall be inaccessible to children.~~

~~[(14)](20) 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 unless otherwise instructed by emergency personnel.

(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 or director designee, 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, pillow[s] covers, 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~~[-]~~ or

~~(d) thrown away with parent consent.~~

~~[(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)~~(19) 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)]~~(20) 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)]~~(21) 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)]~~(22) 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.

R381-60-18. 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, the children's primary screen time activity 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]~~planned to address 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]~~supplies, including at least antiseptic, band-aids, and tweezers 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 highest 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)](7) 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)](8) 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)](9) 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)](10) 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)](11) Unless prohibited in R381-[60]100-19[(11)]10,~~ 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)](12) 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)](13) 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)](14) 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 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"

~~[(16)](15) 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 Fibers	Wood Chips	Double Shredded Bark Mulch
4' high or less	6"	6"	6"
Over 4' up to 5'	6"	6"	6"
Over 5' up to 6'	6"	6"	6"
Over 6' up to 7'	9"	6"	9"
Over 7' up to 8'	9"	9"	9"
Over 8' up to 9'	9"	9"	9"
Over 9' up to 10'	9"	9"	9"
Over 10' up to 11'	9"	9"	9"
Over 11'	9"	not allowed	not allowed

~~[(17)](16)~~ 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)](17)~~ 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.]~~ ~~[(18) A play equipment platform that is more than:~~

~~(a) 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.~~

~~(b) 30 inches above the floor or ground and used by preschoolers shall have a protective barrier that is at least 29 inches high, and~~

~~(c) 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)](19)~~ There shall be no gap greater than 3-1/2 inches in or under a required protective barrier on a play equipment platform.

~~[(23)](20)~~ Stationary play equipment shall be stable and securely anchored.

~~[(24)](21)~~ 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)](22)~~ There shall be no entrapment hazards on or within the use zone of any piece of stationary play equipment.

~~[(27)](23)~~ There shall be no strangulation hazards on or within the use zone of any piece of stationary play equipment.

~~[(28)](24)~~ There shall be no crush, shearing, or sharp edge hazards on or within the use zone of any piece of stationary play equipment.

~~[(29)](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.

R381-60-20. 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, and
 - (e) contain [a-]first aid ~~[kit,]~~supplies, including at least antiseptic, band-aids, and tweezers. ~~[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.

R381-60-23. 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)~~(3) Caregivers shall change children's diapers at a diapering station. Diapers shall not be changed on surfaces used for any other purpose.
- ~~(5)~~(4) The diapering surface shall be smooth, waterproof, and in good repair.
- ~~(6)~~(5) Each diapering station shall be equipped with railings to prevent a child from falling when being diapered.
- ~~(7)~~(6) Caregivers shall not leave children unattended on the diapering surface.
- ~~(8)~~(7) 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)~~(8) Caregivers shall wash their hands after each diaper change.
- ~~(10)~~(9) Caregivers shall place wet and soiled disposable diapers:
 - (a) in a container that has a disposable plastic lining and a

- (b) directly in an outdoor garbage container that has a tight-fitting lid, or
- (c) in a container that is inaccessible to children.
- ~~[(11)]~~(10) Indoor containers where wet and soiled diapers are placed shall be cleaned and sanitized each day.
- ~~[(12)]~~(11) 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.

(17) Soft toys, loose blankets, or other objects shall not be placed in cribs while in use by sleeping infants.

KEY: child care facilities, hourly child care centers, child care
Date of Enactment or Last Substantive Amendment: [~~December 28, 2017~~2018
Authorizing, and Implemented or Interpreted Law: 26-39-203(1)
(a)

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

**NOTICE OF PROPOSED RULE
 (Amendment)
 DAR FILE NO.: 42726
 FILED: 03/28/2018**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of these changes is to clarify some rule language, to add needed subsections, and to delete some unnecessary subsections, so changes in statute, federal requirements, and Rule Committee (Committee) and Department of Health (Department) decisions can take effect.

SUMMARY OF THE RULE OR CHANGE: These changes will clarify language such as changing the word "screening" to "check", modify the appeal process timing to follow recommendations from the Legislative Auditor's Office, change the requirements for submission of background checks from 10 working days to 0 to follow federal requirements, remove the exceptions for required fingerprinting, and renumber the subsections as needed.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 63G, Chapter 3

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The proposed deletion of the fingerprint exception subsection is expected to have a one-time fiscal impact on state revenues because 6 out of the 12 currently licensed out of school time programs will have to submit fingerprints. There are 120 covered individuals (as reported in our records) whom will have to pay the cost of the fingerprints. The individual cost for a fingerprint is \$37. The expected revenues are a one-time event, and that is why there are no additional costs or benefits in the following

years. Any new facilities will have to submit fingerprints as well. However, the Committee cannot anticipate how many, if any, will become licensed or license exempt. The Committee does not anticipate any additional costs or savings due to the other proposed rule changes.

♦ **LOCAL GOVERNMENTS:** These proposed changes are not expected to have any fiscal impact on local governments' revenues or expenditures because there are no licensed out of school time programs operated by local governments to whom these changes will affect. There is only one business in the child care industry (NAICS 624410) in Utah operated by a local government, but that facility is exempt from the requirements of this rule.

♦ **SMALL BUSINESSES:** These rule changes are expected to have a one-time fiscal impact on small businesses' expenditures because there are six out of school time programs that operate as small business to whom the requirement for fingerprints will directly affect. There are 120 covered individuals (as reported in our records) whom will have to pay the cost of the fingerprints. The individual cost for a fingerprint is \$37. All other out of school time programs have already complied with this requirement, but will continue to submit and pay for fingerprints for all new covered individuals because of the current rule. The number of new covered individuals these facilities will employ, if any, cannot be calculated because there is no data available. The Committee does not anticipate any additional costs or savings due to the other proposed rule changes.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These proposed rule changes are not expected to have any fiscal impact on other individuals' revenues or expenditures because only a group of small businesses will be affected by these changes. Currently, there are no persons that are not small businesses to whom these changes will apply.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since fingerprints will be required of any out of school time program, all new applicants for an out of school time program license will be required to pay for fingerprints, with no exceptions, if they have not already done so. The Committee cannot project the number of new applicants, but the number of out of school time program providers has remained about the same for the past five years.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These changes will clarify language such as changing the word "screening" to "check", modify the appeal process timing to follow recommendations from the Legislative Auditor's Office, change the requirements for submission of background checks from 10 working days to 0 to follow federal requirements, remove the exceptions for required fingerprinting, and renumber the subsections as needed. There is a one-time fiscal impact on small businesses for the cost of submitting fingerprints. There are 6 out of school time programs with an estimated 120 individuals who will be required to submit fingerprints at a cost of \$37 per person. The minimal cost of the fingerprinting process is balanced out

by the need to conduct background checks for the health and safety of children receiving care in the affected programs.

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 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 05/15/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/28/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$4,440	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$4,440	\$0	\$0
Fiscal Benefits			
State Government	\$4,440	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0

Total Benefits:	Fiscal	\$4,440	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

The proposed rule changes are not expected to have any fiscal impact on large businesses revenues or expenditures because the 13 large businesses in the child care industry (NAICS 624410) in Utah are either licensed or licensed exempt, and they are already in compliance with the requirements of the current rule. The new requirements will not affect them because the proposed rule does not increase or decrease costs for services they currently provide.

Department Head Comments:

These changes will clarify language such as changing the word "screening" to "check", modify the appeal process timing to follow recommendations from the Legislative Auditor's Office, change the requirements for submission of background checks from 10 working days to 0 to follow federal requirements, remove the exceptions for required fingerprinting, and renumber subsections as needed.

There is a one-time fiscal impact on small businesses for the cost of submitting fingerprints. There are 6 out of school time programs with an estimated 120 individuals who will be required to submit fingerprints at a cost of \$37 per person.

The minimal cost of the fingerprinting process is balanced out by the need conduct background checks for the health and safety of children receiving care in the affected programs.

R381. Health, Child Care Center Licensing Committee.

R381-70. Out of School Time Child Care Programs.

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]check that may result in a denial from Child Care Licensing.

(4) "Background [Screening]Check Denial" means that an individual has failed the background [screening]check 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) "Business Days/Hours" means the days of the week and times the facility is open for business.

~~(7)~~(8) "Capacity" means the maximum number of children allowed in the program at any given time.

~~(8)~~(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.

~~(9)~~(10) "Child Care Center Licensing Committee" means the Child Care Center Licensing Committee created in the Utah Child Care Licensing Act.

~~(10)~~(11) "Conditional Status" means that the provider is at risk of losing their program's license because compliance with licensing rules has not been maintained.

~~(11)~~(12) "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)~~(13) "CPSC" means the Consumer Product Safety Commission.

~~(13)~~(14) "Department" means the Utah Department of Health.

~~(14)~~(15) "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)~~(16) "Director" means a person who meets the director qualifications in this rule, and who assumes the program's day-to-day responsibilities for compliance with Child Care Licensing rules.

~~(16)~~(17) "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)~~(18) "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)~~(19) "Facility" means a program or the premises approved by the Department and licensed by Child Care Licensing.

~~(19)~~(20) "Group" means the children who are assigned to and supervised by one or more staff members.

~~(20)~~(21) "Group Size" means the number of children in a group.

~~(21)~~(22) "Guest" means an individual who is not a covered individual and is at the facility with the provider's permission.

~~(22)~~(23) "Health Care Provider" means a licensed health professional, such as a physician, dentist, nurse practitioner, or physician's assistant.

~~(23)~~(24) "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)~~(25) "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)~~(26) "Infectious Disease" means an illness that is capable of being spread from one person to another.

~~(26)~~(27) "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)~~(28) "License" means a license issued by the Department to provide out-of-school-time program services.

~~(28)~~(29) "Licensee" means the legally responsible person or business that holds a valid license from Child Care Licensing.

~~(29)~~(30) "LIS Supported Finding" means background ~~screening~~ check information from the Licensing Information System (LIS) database for child abuse and neglect, maintained by the Utah Department of Human Services.

~~(30)~~(31) "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)~~(32) "Over-the-Counter Medication" means medication that can be purchased without a written prescription including herbal remedies, vitamins, and mineral supplements.

~~(32)~~(33) "Parent" means the parent or legal guardian of a child in the program.

~~(33)~~(34) "Person" means an individual or a business entity.

~~(34)~~(35) "Physical Abuse" means causing nonaccidental physical harm to a child.

~~(35)~~(36) "Play Equipment Platform" means a flat surface on a piece of stationary play equipment intended for more than one child to stand on, and upon which the children can move freely.

~~(36)~~(37) "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)~~(38) "Protective Cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of injuries from falls.

~~(38)~~(39) "Provider" means the legally responsible person or business that holds a valid license from Child Care Licensing.

~~(39)~~(40) "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)](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.

~~[(41)](42)~~ "Sanitize" means to use a chemical product to remove soil and bacteria from a surface or object.

~~[(42)](43)~~ "School-Age Child" means a child age 5 through 12 years old.

~~[(43)](44)~~ "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)](45)~~ "Sexual Abuse" means abuse as defined in Utah Code, Title 76-5-404(1).

~~[(45)](46)~~ "Sexually Explicit Material" means any depiction of sexually explicit conduct as defined in Utah Code, Title 76-5b-103(10).

~~[(46)](47)~~ "Staff-to-Child Ratio" means the number of staff responsible for a specific number of children.

~~[(47)](48)~~ "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)](49)~~ "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)](50)~~ "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)](51)~~ "Unrelated Child" means a child who is not a "related child" as defined in R381-70-2(40).

~~[(51)](52)~~ "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]check~~.

~~[(52)](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.

~~[(53)](54)~~ "Volunteer" means an individual who receives no form of direct or indirect compensation for their service.

~~[(54)](55)~~ "Working Days" means the days of the week the Department is open for business.

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]checks~~ 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)](e)~~ exit doors shall be unlocked from the inside during business hours;

~~[(g)](f)~~ exits shall be clearly identified;

~~[(h)](g)~~ 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)](h)~~ there shall be working smoke detectors that are properly installed on each level of the building; and

~~[(j)](i)~~ 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~~ checks, civil money penalties, and other fees assessed by the Department.

(15) An applicant or provider may appeal any Department decision within ~~30~~ 15 working days of being informed in writing 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~~ check, 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:

(a) have liability insurance, or

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

~~(10)~~(11) 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)~~(12) 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)~~(13) 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)~~(14) 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]~~ensure that all [staff]employees and volunteers [to ensure that they are qualified]are supervised, qualified, and trained 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]~~check;
 - (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]~~check;
 - (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]~~check;
 - (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]~~check;
 - (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]~~check;
 - (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~~[-], and~~
 - (d) not have unsupervised contact with any child in in the program if the employee is younger than 16 years of age.
- (12) Volunteers shall:
 - (a) pass a CCL background ~~[screening]~~check, 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]~~check.
- (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]~~check,
 - (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]check unless involved with children in the program.

(16) Household members who are:

(a) 12 to 17 years old shall pass a CCL background [screening]check;

(b) 18 years of age or older shall pass a CCL background [screening]check 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]check 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]check, 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;~~

~~_____](b) a current first aid and CPR certification, if required in rule; and~~

~~[(d)](c) a six-week record of the times worked each day.~~

R381-70-8. Background [Screenings]Checks.

~~[(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. [(1) Before a new covered individual becomes involved with child care in the program, the provider shall:~~

~~_____](a) have the individual submit an online background check form.~~

~~_____](b) authorize the individual's background check form.~~

~~_____](c) pay all required fees, and~~

~~_____](d) receive written notice from CCL that the individual passed the background check.~~

~~_____](2) The provider shall ensure that an online background check form is submitted and authorized, and that background check fees are paid within 10 working days from when a child who resides in the facility turns 12 years old.~~

~~[(2)](3) [Unless an exception is granted in rule, t]The provider shall ensure that a CCL background [screening]check for [a]each individual[s] age 18 years or older includes fingerprints and fingerprints fees.~~

~~[(3)](4)~~ The fingerprints shall be prepared by a local law enforcement agency or an agency approved by local law enforcement.

~~[(4)](5)~~ 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 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) Fingerprints are not required if the covered individual has:

~~(a) previously submitted fingerprints to CCL for a Next Generation, national criminal history check;~~

~~(b) resided in Utah continuously since the fingerprints were submitted; and~~

~~(c) kept their CCL background check current.~~

~~[(6)](7)~~ Background ~~[screenings]~~checks are valid for 1 year and shall be renewed before the last day of the month listed on the covered individual's background ~~[screening]~~check card.

~~[(7)](8)~~ At least 2 weeks before the end of the ~~renewal~~ month that is written on a covered individual's background ~~[screening]~~check card, the provider shall:

~~(a) have the individual submit an online CCL background [screening]check form and fingerprints if not previously submitted,~~

~~(b) authorize the individual's background [screening]check form through the provider portal, 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]check~~ 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]check~~ was conducted.

(15) The Department may rely on the criminal background ~~[screening]check~~ 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]check~~ 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]fails to pass a CCL background check, including that the individual has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, the [Department may]provider shall 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]check~~ 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]check~~ denial ~~[under the following conditions:~~

- ~~_____ (a) the background finding is not a felony, and~~
- ~~_____ (b)]when~~ 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]~~approved capacity 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.

R381-70-13. 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.](2) Poisonous and harmful plants shall be inaccessible to children.~~

~~(3) Razors and other similar blades shall be inaccessible to children.~~

~~(4) Strangulation hazards such as ropes, cords, chains, and wires attached to a structure and long enough to encircle a child's neck shall be inaccessible to children.~~

~~(5) Tripping hazards such as unsecured flooring, rugs with curled edges, or cords in walkways shall be inaccessible to children.~~

~~(6) Exits shall be free of any blocking objects.~~

~~(7) Standing water that measures 2 inches or deeper and 5 by 5 inches or greater in diameter shall be inaccessible to children.~~

~~(8) 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.

~~(9) 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.

~~(10) Children shall be protected from items that cause electrical shock such as live electrical wires.~~

~~(11) 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.

~~(12) Weapons such as paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace shall be inaccessible to children.~~

~~(13) 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.~~

~~(14) 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.~~

~~(15) 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.~~

~~(16) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.~~

~~(17) 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 unless otherwise instructed by emergency personnel.

(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 or director designee, 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, pillow[s]covers, 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~~[-]~~ or

~~(d) thrown away with parent consent.~~

~~[(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)~~(15) 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)~~(16) 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)~~(17) 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)~~(18) 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)~~(19) 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.

R381-70-18. 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, the children's primary screen time activity on media such as television, cell phones, tablets, and computers shall be ~~[part of a media plan that addresses]~~ planned to address 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]supplies, including at least antiseptic, band-aids, and tweezers 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.

~~[(+)](9)~~ (9) 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.

~~[(+)](10)~~ (10) 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.

~~[(+)](11)~~ (11) 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.

~~[(+)](12)~~ (12) 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

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Depths of Protective Cushioning Required for Sand, Gravel, and Shredded Tires				
	Fine Sand	Coarse Sand	Fine Gravel	Medium Gravel	Shredded Tires
4' high or less	6"	6"	6"	6"	6"
Over 4' up to 5'	6"	6"	6"	6"	6"

Over 5' up to 6'	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)](13) 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 Fibers	Wood Chips	Double Shredded Bark Mulch
4' high or less	6"	6"	6"
Over 4' up to 5'	6"	6"	6"
Over 5' up to 6'	6"	6"	6"
Over 6' up to 7'	9"	6"	9"
Over 7' up to 8'	9"	9"	9"
Over 8' up to 9'	9"	9"	9"
Over 9' up to 10'	9"	9"	9"
Over 10' up to 11'	9"	9"	9"
Over 11'	9"	not allowed	not allowed

[(15)](14) 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)](15) 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)](16) 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)](17) There shall be no gap greater than 3-1/2 inches in or under a required protective barrier on a play equipment platform.

[(19)](18) Stationary play equipment shall be stable and securely anchored.

[(20)](19) There shall be no trampolines on the premises that are accessible to any child in the program.

[(21)](20) ~~There shall be no heavy metal swings, such as animal-shaped swings, accessible to children.~~

~~[(22)](20)~~ There shall be no entrapment hazards on or within the use zone of any piece of stationary play equipment.

[(23)](21) There shall be no strangulation hazards on or within the use zone of any piece of stationary play equipment.

[(24)](22) There shall be no crush, shearing, or sharp edge hazards on or within the use zone of any piece of stationary play equipment.

[(25)](23) 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, and
- (e) contain ~~[a-]~~first aid ~~[kit,]~~supplies, including at least antiseptic, band-aids, and tweezers. ~~[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: ~~[December 28, 2017]~~2018
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.: 42725
 FILED: 03/28/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of these changes is to clarify some rule language, to add needed subsections, and to delete some unnecessary subsections, so changes in statute, federal requirements, and Rule Committee (Committee) and Department of Health (Department) decisions can take effect.

SUMMARY OF THE RULE OR CHANGE: These changes will clarify language such as changing the word "screening" to "check", modify the appeal process timing to follow recommendations from the Legislative Auditor's Office, change the requirements for submission of background checks from 10 working days to 0 to follow federal

requirements, remove the exceptions for required fingerprinting, and renumber subsections as needed.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 63G, Chapter 3

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The proposed deletion of the fingerprint exception subsection is expected to have a one-time fiscal impact on the state government revenues because 2 out of the 322 currently licensed centers will now have to submit fingerprints. Each of the 2 facilities has 14 covered individuals (as reported in our records) who will have to pay the cost of the fingerprints. The individual cost for a fingerprint is \$37. The expected revenues are a one-time issue, and that is why there are no additional costs or benefits in the following years. Any new facilities will have to submit fingerprints as well. However, the Committee cannot anticipate how many, if any, will become licensed or license exempt. The Committee does not anticipate any additional costs or savings due to the other proposed rule changes.

♦ **LOCAL GOVERNMENTS:** These proposed changes are not expected to have any fiscal impact on local governments revenues or expenditures because there are no licensed centers operated by local governments to whom these changes will affect. There is only one business in the child care industry (NAICS 624410) in Utah operated by a local government, but that facility is exempt from the requirements of this rule.

♦ **SMALL BUSINESSES:** These rule changes are expected to have a one-time fiscal impact on small businesses because there are two centers that operate as small businesses to whom the requirement for fingerprints will directly affect. Each of the two facilities has 14 covered individuals (as reported in our records) who will have to pay the cost of the fingerprints. The individual cost for a fingerprint is \$37. All other centers have already complied with this requirement, but will continue to submit and pay for fingerprints for all new covered individuals per the current rule. The number of new covered individuals these facilities will employ, if any, cannot be calculated because there is no data available. Any new facilities will have to submit fingerprints as well. However, the Committee cannot anticipate how many, if any, will become licensed or license exempt. The Committee does not anticipate any additional costs or savings due to the other proposed rule changes.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These proposed rule changes are not expected to have any fiscal impact on other individuals' revenues or expenditures because only a group of small businesses will be affected by these changes. Currently, there are no persons that are not small businesses to whom these changes will apply.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since fingerprints will be required of any center provider, all new applicants for a center license will be required to pay for fingerprints, with no exceptions, if they have not already done

so. The Committee cannot project the number of new applicants, but the number of center providers has remained about the same for the past five years. The Committee does not anticipate any additional costs or savings due to the other proposed rule changes.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These changes will clarify language such as changing the word "screening" to "check", modify the appeal process timing to follow recommendations from the Legislative Auditor's Office, change the requirements for submission of background checks from 10 working days to 0 to follow federal requirements, remove the exceptions for required fingerprinting, and renumber subsections as needed. There is a one-time fiscal impact on small businesses for the cost of submitting fingerprints. There are 2 child care centers with an estimated 14 individuals who will be required to submit fingerprints at a cost of \$37 per person. The minimal cost of the fingerprinting process is balanced out by the need conduct background checks for the health and safety of children receiving care in the affected programs.

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 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 05/15/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/28/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$1,036	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0

Total Fiscal Costs:	\$1,036	\$0	\$0
Fiscal Benefits			
State Government	\$1,036	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$1,036	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses
The proposed rule changes are not expected to have any fiscal impact on large businesses revenues or expenditures because the 13 large businesses in the child care industry (NAICS 624410) in Utah are either licensed or licensed exempt, and they are already in compliance with the requirements of the current rule. The new requirements will not affect them because the proposed rule changes do not increase or decrease costs for services they currently provide.

There is only one business in the child care industry (NAICS 624410) in Utah operated by a local government, but that facility is exempt from the requirements of this rule.

Department Head Comments:
These changes will clarify language such as changing the word "screening" to "check", modify the appeal process timing to follow recommendations from the Legislative Auditor's Office, change the requirements for submission of background checks from 10 working days to 0 to follow federal requirements, remove the exceptions for required fingerprinting, and renumber subsections as needed.

There is a one-time fiscal impact on small businesses for the cost of submitting fingerprints. There are 2 child care centers with an estimated 14 individuals who will be required to submit fingerprints at a cost of \$37 per person.

The minimal cost of the fingerprinting process is balanced out by the need conduct background checks for the health and safety of children receiving care in the affected programs.

R381. Health, Child Care Center Licensing Committee.**R381-100. Child Care Centers.****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]~~check that may result in a denial from Child Care Licensing.

(4) "Background ~~[Screening]~~Check Denial" means that an individual has failed the background ~~[screening]~~check 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) "Business Days/Hours" means the days of the week and times the facility is open for business.

~~[(7)]~~(8) "Capacity" means the maximum number of children for whom care can be provided at any given time.

~~[(8)]~~(9) "Caregiver-to-Child Ratio" means the number of caregivers responsible for a specific number of children.

~~[(9)]~~(10) "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)]~~(11) "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)]~~(12) "Child Care Center Licensing Committee" means the Child Care Center Licensing Committee created in the Utah Child Care Licensing Act.

~~[(12)]~~(13) "Child Care Program" means a person or business that offers child care.

~~[(13)]~~(14) "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)]~~(15) "Conditional Status" means that the provider is at risk of losing their child care license because compliance with licensing rules has not been maintained.

~~[(15)]~~(16) "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)]~~(17) "CPSC" means the Consumer Product Safety Commission.

~~[(17)]~~(18) "Department" means the Utah Department of Health.

~~[(18)]~~(19) "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)]~~(20) "Director" means a person who meets the director qualifications in this rule, and who assumes the child care program's day-to-day responsibilities for compliance with Child Care Licensing rules.

~~[(20)]~~(21) "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)]~~(22) "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)]~~(23) "Facility" means a child care program or the premises approved by the Department to be used for child care.

~~[(23)]~~(24) "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)]~~(25) "Group Size" means the number of children in a group.

~~[(25)]~~(26) "Guest" means an individual who is not a covered individual and is at the child care facility with the provider's permission.

~~[(26)]~~(27) "Health Care Provider" means a licensed health professional, such as a physician, dentist, nurse practitioner, or physician's assistant.

~~[(27)]~~(28) "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)]~~(29) "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)]~~(30) "Infant" means a child who is younger than 12 months of age.

~~[(30)]~~(31) "Infectious Disease" means an illness that is capable of being spread from one person to another.

~~[(31)]~~(32) "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)~~(33) "License" means a license issued by the Department to provide child care services.

~~(33)~~(34) "Licensee" means the legally responsible person or business that holds a valid license from Child Care Licensing.

~~(34)~~(35) "LIS Supported Finding" means background ~~screening~~check information from the Licensing Information System (LIS) database for child abuse and neglect, maintained by the Utah Department of Human Services.

~~(35)~~(36) "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)~~(37) "Over-the-Counter Medication" means medication that can be purchased without a written prescription including herbal remedies, vitamins, and mineral supplements.

~~(37)~~(38) "Parent" means the parent or legal guardian of a child in care.

~~(38)~~(39) "Person" means an individual or a business entity.

~~(39)~~(40) "Physical Abuse" means causing nonaccidental physical harm to a child.

~~(40)~~(41) "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)~~(42) "Preschooler" means a child age 2 through 4 years old.

~~(42)~~(43) "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)~~(44) "Protective Cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of injuries from falls.

~~(44)~~(45) "Provider" means the legally responsible person or business that holds a valid license from Child Care Licensing.

~~(45)~~(46) "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)~~(47) "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)~~(48) "Sanitize" means to use a chemical product to remove soil and bacteria from a surface or object.

~~(48)~~(49) "School-Age Child" means a child age 5 through 12 years old.

~~(49)~~(50) "Sexual Abuse" means abuse as defined in Utah Code, Title 76-5-404(1).

~~(50)~~(51) "Sexually Explicit Material" means any depiction of sexually explicit conduct as defined in Utah Code, Title 76-5b-103(10).

~~(51)~~(52) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.

~~(52)~~(53) "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)~~(54) "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)~~(55) "Substitute" means a person who assumes a caregiver's duties when the caregiver is not present.

~~(55)~~(56) "Toddler" means a child age ~~4~~ 12 through 23 months.

~~(56)~~(57) "Unrelated Child" means a child who is not a "related child" as defined in R381-100-2(46).

~~(57)~~(58) "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~~check.

~~(58)~~(59) "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)~~(60) "Volunteer" means an individual who receives no form of direct or indirect compensation for their service.

~~(60)~~(61) "Working Days" means the days of the week the Department is open for business.

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~~checks 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)](e)~~ exit doors shall be unlocked from the inside during business hours;

~~[(g)](f)~~ exits shall be clearly identified;

~~[(h)](g)~~ 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)](h)~~ there shall be working smoke detectors that are properly installed on each level of the building; and

~~[(j)](i)~~ 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]checks, civil money penalties, and other fees assessed by the Department.

(15) An applicant or provider may appeal any Department decision within [30]15 working days of being informed in writing 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]check, 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:

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

(11) 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.

(12) 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.

(13) 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.

(14) 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.

(15) 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.

(16) 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.

(17) 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]~~ensure that all employees and volunteers ~~[to ensure that they are qualified]~~are supervised, qualified, and trained 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]~~check;
 - (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]~~check;
- (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]check~~;

(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]check~~;

(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]check~~,

(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 ~~[-], and~~

(d) not have unsupervised contact with any child in care if the employee is younger than 16 years of age.

(12) Volunteers shall:

(a) pass a CCL background ~~[screening]check~~, 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]check~~.

(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]check~~,

(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]check~~ 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]check~~;

(b) 18 years of age or older shall pass a CCL background ~~[screening]check~~ 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]check~~ 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]check~~, 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;~~

~~(e)](b) a current first aid and CPR certification, if required in rule; and~~

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

R381-100-8. Background [Screenings]Checks.

~~(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.](1) Before a new covered individual becomes involved with child care in the program, the provider shall:~~

~~(a) have the individual submit an online background check form,~~

~~(b) authorize the individual's background check form,~~

~~(c) pay all required fees, and~~

~~(d) receive written notice from CCL that the individual passed the background check.~~

~~(2) The provider shall ensure that an online background check form is submitted and authorized, and that background check fees are paid within 10 working days from when a child who resides in the facility turns 12 years old.~~

~~(2)](3) [Unless an exception is granted in rule, t]The provider shall ensure that a CCL background [screening]check for~~

each individual age 18 years or older includes fingerprints and fingerprints fees.

~~(3)](4) The fingerprints shall be prepared by a local law enforcement agency or an agency approved by local law enforcement.~~

~~(4)](5) 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) Fingerprints are not required if the covered individual has:~~

~~(a) previously submitted fingerprints to CCL for a Next Generation national criminal history check;~~

~~(b) resided in Utah continuously since the fingerprints were submitted; and~~

~~(c) kept their CCL background check current.~~

~~(6)](7) Background [screenings]checks are valid for 1 year and shall be renewed before the last day of the month listed on the covered individual's background [screening]check card.~~

~~(7)](8) At least 2 weeks before the end of the renewal month that is written on a covered individual's background [screening]check card, the provider shall:~~

~~(a) have the individual submit an online CCL background [screening]check form and fingerprints if not previously submitted,~~

~~(b) authorize the individual's background [screening]check form through the provider portal, 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]check 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]check~~ was conducted.

(15) The Department may rely on the criminal background ~~[screening]check~~ 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]check~~ 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]fails to pass a CCL background check, including that the individual has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, the [Department may]provider shall~~ 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]check~~ 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]check~~ denial ~~[under the following conditions:~~

- ~~(a) the background finding is not a felony, and~~
- ~~(b) [when~~ 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~~ approved capacity 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	

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 16	
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	
2	2	1-13
	3	1-25
	4	1-25
	5-12	1-25
	Total children: up to 28	

(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.

R381-100-13. 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.]~~ (2) Poisonous and harmful plants shall be inaccessible to children.

(3) Sharp objects, edges, corners, or points that could cut or puncture skin shall be inaccessible to children.

(4) Choking hazards shall be inaccessible to children to children younger than 3 years of age.

(5) Strangulation hazards such as ropes, cords, chains, and wires attached to a structure and long enough to encircle a child's neck shall be inaccessible to children.

(6) Tripping hazards such as unsecured flooring, rugs with curled edges, or cords in walkways shall be inaccessible to children.

(7) 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 shall be inaccessible to children.

(8) Standing water that measures 2 inches or deeper and 5 by 5 inches or greater in diameter shall be inaccessible to children.

~~[(9)]~~ (9) 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)]~~ (10) 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)]~~ (11) 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)]~~ (12) 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)]~~ (13) Weapons such as paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace shall be inaccessible to children.

~~[(8)]~~ (14) 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)]~~ (15) 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)]~~ (16) 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)]~~ (17) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.

~~[(12)]~~(18) Highchairs shall have T-shaped safety straps or devices that are used whenever a child is in the chair.

~~[(13)]~~(19) Infant walkers with wheels shall be inaccessible to children.

~~[(14)]~~(20) 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 unless otherwise instructed by emergency personnel.

(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 or director designee, 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, pillow[s]~~covers~~, 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 ~~[-], or~~
- ~~(d) thrown away with parent consent.~~

~~[(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)](19) 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)](20) 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)](21) 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)](22) 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)](23) 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)](24) 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.

R381-100-18. 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, the children's primary screen time activity 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]~~ planned to address 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]~~supplies, including at least antiseptic, band-aids, and tweezers 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 highest 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)](7) 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)](8) 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)](9) 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)](10) 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)](11) Unless prohibited in R381-100-19[(11)](10), 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)](12) 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)](13) 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.~~

~~[(45)](14)~~ 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 Sand	Coarse Sand	Fine Gravel	Medium Gravel	Shredded Tires
4' high or less	6"	6"	6"	6"	6"
Over 4' up to 5'	6"	6"	6"	6"	6"
Over 5' up to 6'	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	allowed	9"	not allowed	6"
Over 10' up to 11'	not allowed	allowed	not allowed	not allowed	6"
Over 11' up to 12'	not allowed	allowed	not allowed	not allowed	6"

~~[(46)](15)~~ 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 Fibers	Wood Chips	Double Shredded Bark Mulch
4' high or less	6"	6"	6"
Over 4' up to 5'	6"	6"	6"
Over 5' up to 6'	6"	6"	6"
Over 6' up to 7'	9"	6"	9"
Over 7' up to 8'	9"	9"	9"
Over 8' up to 9'	9"	9"	9"
Over 9' up to 10'	9"	9"	9"
Over 10' up to 11'	9"	9"	9"
Over 11'	9"	not allowed	not allowed

~~[(47)](16)~~ 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.

~~[(48)](17)~~ 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. ~~[(18)]~~ A play equipment platform that is more than:

(a) 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.

(b) 30 inches above the floor or ground and used by preschoolers shall have a protective barrier that is at least 29 inches high, and

(c) 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)](19)~~ There shall be no gap greater than 3-1/2 inches in or under a required protective barrier on a play equipment platform.

~~[(23)](20)~~ Stationary play equipment shall be stable and securely anchored.

~~[(24)](21)~~ 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)](22)~~ There shall be no entrapment hazards on or within the use zone of any piece of stationary play equipment.

~~[(27)](23)~~ There shall be no strangulation hazards on or within the use zone of any piece of stationary play equipment.

~~[(28)](24)~~ There shall be no crush, shearing, or sharp edge hazards on or within the use zone of any piece of stationary play equipment.

~~[(29)](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.

R381-100-20. 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, and

(e) contain ~~[a-]first aid [kit,]supplies, including at least antiseptic, band-aids, and tweezers. [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.

R381-100-23. 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)](3) The diapering area shall not be located in a food preparation or eating area.~~

~~[(4)](3) Caregivers shall change children's diapers at a diapering station. Diapers shall not be changed on surfaces used for any other purpose.~~

~~[(5)](4) The diapering surface shall be smooth, waterproof, and in good repair.~~

~~[(6)](5) Each diapering station shall be equipped with railings to prevent a child from falling when being diapered.~~

~~[(7)](6) Caregivers shall not leave children unattended on the diapering surface.~~

~~[(8)](7) 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)](8) Caregivers shall wash their hands after each diaper change.~~

~~[(10)](9) 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)](10) Indoor containers where wet and soiled diapers are placed shall be cleaned and sanitized each day.~~

~~[(12)](11) 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) Soft toys, loose blankets, or other objects shall not be placed in cribs while in use by sleeping infants.~~

~~(19)~~(20) 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)~~(21) 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)~~(22) 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: ~~December 28, 2017~~ 2018

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

Health, Disease Control and Prevention, Environmental Services **R392-200** Design, Construction, Operation, Sanitation, and Safety of Schools

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 42732

FILED: 03/29/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change updates the list of authorizing statute and addresses a school toilet room privacy concern.

SUMMARY OF THE RULE OR CHANGE: This change updates the list of authorizing statutes and addresses a school toilet-room privacy concern. Nonsubstantive changes are: updated list of authorizing statutes to include Subsection 26-1-30(9), Subsection 26-1-30(23), Section 26-1-5, and Section 26-7-1. Revised Subsection R392-200-7(4)(c) to correct an error in minimum toilet enclosure partition height from the floor, which has the potential create student privacy issues.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-7-1 and Section 26-1-5 and Section 26-15-2 and Subsection 26-1-30(23) and Subsection 26-1-30(9)

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** There is no anticipated fiscal impact to the state budget resulting from this rule change.

♦ **LOCAL GOVERNMENTS:** Amending Rule R392-200 may result in an inestimable fiscal cost to any public school that lowers a toilet enclosure partition as a result of the amended requirement in Subsection R392-200-7(4)(c). The full impact to such a business cannot be estimated as the necessary data, such as the number of public schools with non-compliant partitions, the number of partitions therein, and the associated labor and equipment costs are unavailable, and the cost to the state to obtain said data is prohibitively costly.

♦ **SMALL BUSINESSES:** Amending Rule R392-200 may result in an inestimable fiscal cost to any small private school or charter school that lowers a toilet enclosure partition as a result of the amended requirement in Subsection R392-200-

7(4)(c). The full impact to such a business cannot be estimated as the necessary data, such as the number of small private schools or charter schools with non-compliant partitions, the number of partitions therein, and the associated labor and equipment costs are unavailable, and the cost to the state to obtain said data is prohibitively costly.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** There is no anticipated fiscal impact to persons other than small businesses, businesses, or local government entities resulting from this rule change because the change only applies to toilet enclosure partitions located within public restrooms in public and private schools.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons includes local governments (school districts), and small businesses (small private schools and charter schools) as detailed in the costs listed above.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These proposed amendments update the list of authorizing statute and corrects an error in minimum toilet enclosure partition height to address privacy concerns. Fiscal impact on businesses is inestimable at this time because the cost to the state to obtain data is prohibitively costly, however, the amended is necessary to address privacy concerns.

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 chrisonelson@utah.gov or mail at 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 05/15/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0

Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:			
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

There are 762 non-small businesses in the industry in question (NAICS 611110) in Utah. Amending Rule R392-200 may result in an inestimable fiscal cost to any school that lowers a toilet enclosure partition as a result of the amended requirement in Subsection R392-200-7(4)(c). The full impact to such a business cannot be estimated as the necessary data, such as the number of schools with non-compliant partitions, the number of partitions therein, and the associated labor and equipment costs are unavailable, and the cost to the state to obtain said data is prohibitively costly.

R392. Health, Disease Control and Prevention, Environmental Services.

R392-200. Design, Construction, Operation, Sanitation, and Safety of Schools.

R392-200-1. Authority and purpose of Rule.

This rule is authorized under Sections 26-15-2, 26-1-30(9), 26-1-30(23), 26-1-5, and 26-7-1. It establishes minimum standards for the design, construction, operation, sanitation, and safety of schools.

R392-200-2. Applicability, Responsibility for Compliance.

(1) The provisions of this rule are applicable to the design, construction, operation, maintenance, safety, health, and sanitation of schools, their grounds, and accessory structures.

(2) The governing body of the school, shall ensure that the school building and grounds are constructed, operated, and maintained in accordance with this rule.

(3) This rule does not require a construction change in any portion of a school if it was constructed and in compliance with law in effect at the time the school was built except as specifically provided otherwise in this rule. However if the Executive Director or the Local Health Officer determines that conditions in any school are a threat to the health of persons using the school, the Executive Director or the Local Health Officer may order correction of any condition that impairs or endangers the health or life of those attending schools. The Executive Director or Local Health Officer may allow temporary measures to ameliorate the problem for up to a year until the governing body can make a permanent correction.

R392-200-3. Definitions.

The following definitions apply to this rule:

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

(2) "Director" means the Executive Director of the Utah Department of Health, or designated representative.

(3) "Governing Body" means the board of education, owner, person or persons designated by the owner with ultimate authority and responsibility, both moral and legal, for the management, control, conduct and functioning of the school.

(4) "Instructor" means any volunteer or employee educator, licensed or not licensed, responsible for student education at a private or public school.

(5) "Local Health Officer" means the health officer of any county or district health department, or designated representative.

(6) "School" means any public or private educational institution including charter schools, elementary schools, middle schools, and secondary schools established to provide education for grades kindergarten through 12 regardless of student's age, including attached pre-schools, but excluding home schools.

(7) "Toxic" means any chemical or biological agent the exposure to which may cause an acute or chronic health hazard.

R392-200-4. Site Standards.

(1) Prior to developing plans and specifications for a new school, or the expansion of an existing school, school districts and charter schools shall coordinate with local health departments regarding environmental health and safety issues to avoid unreasonable risks to the health and safety of students, school staff, and faculty.

(2) The school site shall be located to minimize the negative influence of railroads, freeways, highways, heavy traffic roads, industrial areas, airports and aircraft flight patterns, fugitive dust, odors, or other areas where auditory problems, malodorous conditions, or safety and health hazards exist.

R392-200-5. School Grounds.

(1) School ground fencing shall be constructed of smooth materials with no barbs or projections and shall be maintained in good repair.

(2) Mechanical equipment, electrical transmission lines, poles, transformer boxes, and other electrical equipment shall be

located or protected with a barrier to prevent an electrical or other safety hazard.

(3) Walkways shall be provided between the school building and other buildings on the school grounds. Walkways shall be graded to allow proper drainage, and allow for safe passage. Walkways and parking areas shall be maintained in good repair and free of a buildup of snow and ice.

(4) Illuminance at a minimum of 1 foot candle shall be provided for walkways, building entrances, parking areas, roads, and similar areas, during hours of use.

(5) With the exception of "pop up heads", elevated lawn sprinkler heads shall not be permanently installed and shall not be left in place on playgrounds or other recreational areas.

(6) Service roads, parking areas, and walkways on school property shall be constructed and located to facilitate the safe movement of vehicular and pedestrian traffic. Student drop off and pick up zones must maximize safety.

(7) The governing body shall control health and safety risks on school property by removing items that are likely to be a source of risk such as weeds, holes, broken glass, or broken or cut tree limbs and by filling or covering excavations or ditches.

(8) Playgrounds must be located in areas that maximize safety. The governing body shall provide personnel so that playgrounds are adequately supervised during recess and school sponsored outdoor time. Playground equipment, if provided, shall be located to permit supervision.

(9) The governing body shall minimize the likelihood of students' contact with stray animals using methods such as the installation of fencing at elementary schools and taking appropriate actions to have removed any stray animals found on the school property. Animals brought by students or teachers for instruction or demonstration purposes are allowed if controlled in a manner that protects students and, if a vaccine is available for that species, the animal has been vaccinated for rabies. Police enforcement dogs, and service animals on duty under the Americans with Disabilities Act or under the provisions of an individualized education plan made pursuant to the Individuals with Disabilities Education Act are allowed on the school grounds.

(10) If bicycles are permitted at a school, the governing body shall ensure that a designated area for bicycle parking is provided and located where it will not create a safety hazard by obstructing building entry or exit ways, walkways, or vehicular traffic.

(11) Structures or landscaping must not provide access by unauthorized individuals to the roof of the school.

R392-200-6. Food Service.

(1) The design, construction, installation, and operation of food service facilities and equipment shall be in compliance with the Food Service Sanitation Rule R392-100 and local health department regulations. Plans for food service facilities must be submitted by the governing body to the local health department for evaluation and approval prior to the beginning of construction. Any significant modification to the school food service facility that falls within the plan review requirements of R392-100 must be approved by the local health department prior to modification.

(2) The governing body shall ensure that food provided by the school that is not prepared on site is obtained, transported, and served from approved sources as required by R392-100.

R392-200-7. Sanitary Facilities and Controls.**(1) Water Supply.**

(a) The water supply shall meet the requirements of the Utah Department of Environmental Quality. All bottled water supplied or sold by the school shall meet the bottled water requirements of the Utah Department of Agriculture and Food.

(b) The governing body shall notify the local health department as soon as reasonably possible but no longer than four hours after the discovery of a continuing water supply interruption. If the water supply is estimated to be or actually interrupted for four hours or more, the local health officer may require the school to close or have the school provide an alternative source of potable water approved by the local health department.

(2) Wastewater.

(a) The governing body shall ensure that all wastewater or water-carried wastes such as water from cleaning garbage cans and dumpsters is disposed of in accordance with rules established by the Utah Department of Environmental Quality.

(b) The governing body shall notify the local health department as soon as reasonably possible but no longer than four hours after the discovery of a continuing sewer system interruption. If the sewer system is estimated to be or is actually interrupted for four hours or more the local health officer may require the school to be closed or require the school to provide temporary toilet facilities or an alternate wastewater disposal method approved by the local health department and the Utah Department of Environmental Quality.

(3) **Plumbing.** The governing body shall ensure that plumbing is sized, installed, and maintained in accordance with the requirements of the most restrictive or specific between the plumbing code adopted by the Utah legislature under Section 15A-2-103 and the 2010 Americans with Disability Act (ADA).

(4) Toilet Rooms.

(a) Toilet rooms shall be in compliance with the requirements of the most restrictive or specific between the plumbing code adopted by the Utah Legislature under Section 15A-2-103 and the 2010 ADA. With the exception of faculty or staff restrooms, locked toilet rooms are prohibited unless students have access to the number of unlocked toilet rooms as required under the aforementioned plumbing code or the 2010 ADA, whichever is the most stringent or restrictive of the two.

(b) Self-closing entrance doors shall be provided if privacy is not achieved using shielding to break the line of vision of a person looking into the toilet room from outside the toilet room.

(c) If a toilet room is designed for use by more than one person at a time, each toilet ~~therein shall be enclosed on all four sides by a separate stall~~ shall occupy a separate compartment with walls or partitions and a door enclosing the fixture to ensure privacy. The height of the ~~stalls~~ walls or partitions shall allow sufficient light or ventilation therein. The ~~stall~~ walls or partitions and door shall begin at a height not more than 12 inches from and extend not less than 60 inches above the finished floor surface ~~be at least 16 inches from the floor~~. A urinal is exempt from the requirements for ~~a stall~~ an enclosure; however, where there are two or more adjacent urinals, there shall be a solid partition installed between adjacent urinals according to the requirements of Plumbing Code ~~that extends at least 18 inches from the wall~~.

(d) In new or extensively remodeled schools, toilet rooms shall be mechanically vented to the outside of the building. A system shall be installed to resupply the air that is exhausted.

(e) An easily cleanable waste container shall be provided and maintained in each toilet room. At least one conveniently located covered waste receptacles must be provided in toilet rooms used by females nine years and older. Assigned school or contracted personnel shall empty each waste container as often as necessary and at least daily.

(f) All toilet room fixtures shall be kept clean and maintained in good repair.

(g) Toilet fixtures shall be provided with a supply of toilet tissue at all times.

(h) Toilet rooms must be easily accessible and conveniently located for use at all times the school is in session or used for school approved activities, for all school recreational facilities, and for areas utilized for school functions.

(i) Toilet room walls, floors, and ceilings must be constructed of smooth, non-absorbent, easily cleanable materials. Assigned school or contracted personnel shall keep toilet room walls, floors, and ceilings clean and maintained in good repair.

(5) Diaper Changing.

(a) A school attended by students who require changing of diapers by school or designated personnel must have a designated diaper changing area.

(b) The diapering area shall not be located in a food preparation or eating area.

(c) The diapering surface must not be used for any other purpose. The diapering station shall have a solid, smooth, non-absorbent surface kept in good repair.

(d) Child and student diapering stations shall be designed with a raised edge to prevent a child or student from rolling off or falling.

(e) A privacy area for individuals older than three years of age requiring diaper change must be provided for diaper changing.

(f) The governing body shall make sure that the school staff members who perform diapering tasks comply with the following requirements:

(i) Staff members who prepare or serve food shall not change diapers or assist in toilet training.

(ii) Staff members shall not diaper children directly on the floor.

(iii) Staff members shall not leave a child or student unattended on the diapering surface.

(iv) Staff members shall clean and sanitize diapering surfaces after each use, shall use a sanitizer registered by the U.S. Environmental Protection Agency for that purpose and according to the manufacturer's instructions, and shall make sure sanitizer containers are properly labeled and stored in the diaper changing area out of the reach of children and students.

(v) If a disposable covering is used on the diapering surface, a staff member shall properly dispose of the covering after each diaper change.

(vi) Staff members shall wash their hands with soap and water immediately after changing a diaper, and before commencing other tasks.

(vii) Staff members shall place soiled disposable diapers in a container that has a leak proof lining and a tight fitting lid, in a leak proof sealed bag and placed in a container with a tight fitting lid, or placed directly in an outdoor garbage container that has a tight fitting lid. Staff shall clean and sanitize on a daily basis the containers where soiled diapers are placed.

(viii) If cloth diapers are used, staff members shall not rinse them at the school. After a cloth diaper is changed, a staff member shall place the cloth diaper directly into a leak-proof container or into a sealed bag and placed in a container. The container shall be inaccessible to any child and labeled with the child's name. The staff member may also place the diaper into a leak-proof diapering service container.

(ix) A staff member shall check each child's diaper at least once every two hours and shall change any child's diaper 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.

(x) The governing body shall ensure that diaper changing procedures meeting the requirements of this rule are posted in the diaper changing area.

(6) Handwashing Sinks.

(a) Handwashing sinks shall be placed in or immediately adjacent to toilet facilities.

(b) Handwashing sinks shall be located in or conveniently adjacent to classrooms where normal activities require the students to wash their hands either before or after performing the classroom activities. All elementary classrooms, life skills, art, chemistry, biology, auto shop, wood and metal shop, and drama must have handwashing sinks located in or conveniently adjacent to them. Water provided at these locations must be tempered to or adjustable to a minimum of 100 degrees Fahrenheit (37.8 degrees Celsius) and not exceed 110 degrees Fahrenheit (43.3 degrees Celsius).

(c) Handwashing sinks must be provided at locations where persons are required to handle any liquids that may burn, irritate, or are otherwise harmful to the skin.

(d) Handwashing sinks shall be at a height appropriate to the children that use them.

(e) Handwashing sinks with hot and cold water shall be provided with faucets that utilize a mixing valve or a combination faucet. Any self-closing, slow-closing, or metering faucet used shall be designed to provide a flow of water for an average of at least 15 seconds without the need to reactivate the faucet.

(f) Hand cleaning soap or detergent must be conveniently provided near each handwashing sink.

(g) Disposable sanitary towels shall be provided in a protective dispenser that dispenses one towel at a time or a forced-air mechanical hand-drying device providing heated air conveniently located near each handwashing sink. If cloth towels are used for hand drying, a towel or segment of a roll cloth towel that has not been used by another person since it was laundered shall be available for each person.

(h) Handwashing sinks and all related fixtures shall be kept clean and maintained in good repair.

(7) Shower Facilities.

(a) Shower Construction.

(i) Showers for classes in physical education shall be provided if students are required to change clothes. Each shower must be provided with hot and cold water utilizing a mixing valve or combination faucet. Nothing in this section shall prohibit the use of water temperature controls to ensure the safety of the student. A non-skid surface must be installed on shower floors and adjacent floor areas. Shower room walls and ceilings shall be constructed with light colored, smooth, nonabsorbent, and easily cleanable materials.

(ii) At least one shower head shall be provided for each 15 students utilizing any adjacent dressing area at any one time. A supply of liquid soap for showering must be provided.

(iii) At least two privacy showers must be provided for schools constructed after January 1, 2012.

(iv) A dressing room area with non-skid floors and floor drains shall be provided adjacent to shower facilities. Showers shall be constructed to prevent water flow into the drying and dressing room area. Hard surfaced or materials that cannot absorb water must be used for floors, benches, and other furniture in dressing rooms.

(v) The shower area dressing room shall be mechanically ventilated to the outside of the building and a system to resupply the air that is exhausted must be installed.

(vi) Toilet rooms and towel racks shall be located convenient to shower and dressing rooms.

(b) Shower Room Cleaning and Maintenance.

Shower rooms, dressing rooms, and adjacent areas shall be kept clean and free of clutter. Shower room walls and ceilings shall be kept clean and maintained in good repair. Shower floors shall be cleaned and disinfected daily after school activity use.

(c) Shower Supplies.

If students are provided with towels, the towels shall be laundered at least weekly and shall not be shared with another student.

(8) Drinking Fountains.

(a) Drinking fountains shall provide a water stream of at least a 2 inch arch into the basin.

(b) Fountains shall be kept clean and in good repair.

(c) Drinking fountains are prohibited in areas where contamination from human wastes or toxic or hazardous materials is likely to occur, including toilet rooms and laboratories.

(d) Drinking fountains shall be installed so the height of the drinking fountain is at the drinking level convenient to students utilizing the drinking fountain.

(e) Drinking fountains shall be conveniently located and easily accessible for all recreational facilities and areas utilized for school functions.

(f) Single service and multi use cups provided by the school must meet the requirements of R392-100.

(9) Swimming Pools.

Swimming pools at school facilities must be constructed, operated, and maintained in accordance with R392-302.

(10) Waste Collection, Storage and Disposal.

(a) Waste containers shall be provided in each classroom.

(b) For shops, chemistry labs, and similar areas, separate waste containers shall also be provided for each type of waste material not allowed to be disposed with regular municipal waste.

(c) Solid wastes shall be kept in durable, easily cleanable, insect-resistant and rodent-resistant containers that do not leak and do not absorb liquids.

(d) A sufficient number and size of containers must be provided to hold all the garbage, refuse, and other waste accumulated between the times when the containers are emptied.

(e) The governing body shall direct school personnel to clean and repair or replace all waste containers at a frequency that will prevent odors and prevent insect and rodent attraction. Hot water at a minimum of 110 degrees Fahrenheit (43.3 degrees Celsius) and detergent or steam must be provided for washing waste containers.

Liquid waste from compacting or cleaning operations shall be disposed of as sewage and shall not be allowed to enter any storm drain.

(f) Storage.

(i) Waste materials stored on the premises must be located to minimize access to insects, rodents, and other animals and not cause a nuisance. Outside storage of unprotected plastic bags or wet-strength paper bags or baled units containing garbage or refuse is prohibited. Cardboard or other packaging material that contains no garbage or food wastes need not be stored in covered containers, if such material is protected in an enclosure or baled.

(ii) Tight-fitting lids, doors, or covers shall be provided on waste containers, refuse bins, compactors, and compactor systems. The lids, doors, or covers shall be kept closed except when emptying or filling. Containers, refuse bins, compactors, and compactor systems used by the school shall be easily cleanable and maintained in good repair. Containers designed with drains shall have drain plugs in place except during cleaning.

(iii) If waste storage rooms are used, the rooms shall have walls, floors, and ceilings constructed with easily cleanable, nonabsorbent, washable materials that are clean and in good repair. The doors of storage rooms shall be fitted to reduce the entrance of rodents and insects.

(iv) Outside storage areas or enclosures shall be constructed of easily cleanable materials and shall be kept clean and maintained in good repair. Outside waste containers, refuse bins and compactor systems shall be stored on or above a smooth surface of cleanable material, such as concrete or asphalt, that is kept clean and maintained in good repair.

(g) Disposal.

(i) Waste shall be disposed of often enough to prevent the development of odor and minimize the harborage of insects or rodents.

(ii) The disposal of all waste shall comply with all Utah Division of Solid and Hazardous Waste rules and local health department regulations.

(11) Hazardous Wastes.

All hazardous and regulated waste disposal shall comply with the Utah waste management rules and applicable local regulations.

(12) Pest Management.

(a) The governing body shall minimize in school buildings or on school grounds the presence of pests that are vectors for disease, carry allergens that are likely to affect individuals with allergies or respiratory problems, or may sting or bite causing mild to serious reactions in some individuals.

(b) The governing body shall adopt integrated pest management (IPM) practices and principles to prevent unacceptable levels of pest activity with the least possible hazard to people, property, and the environment.

(c) The governing body shall have a written integrated pest management plan written by the governing body or provided by the contracted pest management contractor whether IPM is implemented as an internal process or contracted to a pest management professional. The plan shall include sections that cover the following topics: an IPM policy statement; IPM implementation and education; pest identification, monitoring procedures, reporting and control practices; approved pesticides; procedures for pesticide use; a policy for the notification of students, parents, and staff; and applicator requirements. Guidance for an IPM plan can be found in publications of the IPM Institute of North America. The Department or the Local Health

Officer may require changes in a school's IPM plan if the plan neglects or causes a threat to the health or safety of the occupants of a school.

(d) The governing body shall use non-chemical management methods whenever possible to provide the desired control. The governing body shall use a full range of control alternatives including: identification and removal or repair of conditions that are conducive to pests; structural repair and sealing; improved sanitation; removal of clutter or harborage; elimination of food sources; exclusionary measures to protect doors, windows and any other opening to the outside against the entrance of insects, rodents, and other animals. A no-action alternative shall also be considered in cases where the pest has no public health or property damage significance.

(e) If the governing body chooses to not use a contracted pest control contractor, school personnel who apply pesticides shall follow the Utah Dept. of Agriculture pesticide regulation R68-7. The applicator shall apply all products according to the pesticide label directions.

R392-200-8. Construction and Maintenance of Physical Facilities.

(1) Floors, Walls, and Ceilings.

All school building floors, walls, and ceilings shall be constructed with materials that are durable and easily cleanable. Floors, walls, and ceilings shall be clean and in good condition.

(2) Lighting.

(a) Lighting in all parts of the school building shall have the capability to provide at least the minimum required illumination levels listed in Table I when the building is in use. Permanently fixed artificial light sources must be provided.

TABLE 1

MINIMUM REQUIRED ILLUMINATION LEVELS

Task or Area	Footcandle Level/Lux
General instructional areas: Study halls, art rooms, lecture rooms, libraries, and other areas	50/538
Special instructional areas: Drafting rooms, laboratories, shops, and other rooms where some fine detail work is done	100/1076
Special instruction areas: Sewing and other rooms where fine detail work is done	100/1076
Gymnasiums: Auxiliary spaces, shower rooms and locker rooms	30/323
Gymnasiums: Main recreation spaces	50/538
Auditoriums, faculty and staff lunchrooms, assembly and multi-purpose rooms, and similar areas not used for classrooms	30/323

Corridors, stairs, hallways, passageways, storerooms, and similar areas	10/108
Toilet rooms	10/108
Offices	50/538

(b) All light fixtures located in shops, life skills, cafeterias, kitchens, food preparation areas, toilet rooms, shower areas, locker rooms, and gymnasiums shall have protective shields to contain broken glass if the bulb or tube is broken or shattered.

(c) School personnel or contracted persons shall clean and repair light fixtures and replace burned out bulbs or lamps as often as necessary in order to maintain the illumination levels required in this section.

(3) Ventilation.

(a) Ventilation throughout the school must be in accordance with the requirements of the mechanical code adopted by the Utah Legislature under Section 15A-2-103.

(b) Air ducts shall be maintained to prevent the entrance of dust, dirt, and other contaminating materials. Vehicles must be prohibited from parking in areas adjacent to and close enough to building air intakes to create a vehicle exhaust hazard and nuisance inside the structure.

(4) Heating and Cooling.

(a) Heating facilities must be installed, vented and maintained in a safe working condition. Portable combustion type space heaters are prohibited.

(b) During cold weather, the governing body shall maintain the occupied areas of the school building at a temperature between 68 and 74 degrees Fahrenheit (20 and 26.3 degrees Celsius). Occupied areas of school buildings used for school activities which because of the nature of the activities require a temperature different from that of a classroom such as ice skating, aerobics, and swimming shall be maintained at the appropriate temperature for the activity. Temperatures shall also be maintained at an appropriate range for any students who qualify under the Individuals with Disabilities Education Act.

(c) During periods of hot weather when the outside temperature is 90 degrees Fahrenheit or higher when school is in session, the governing body shall employ either an automatic temperature monitoring system or a written plan executed by assigned staff to monitor the temperature of each occupied classroom, occupied auditorium, and occupied gymnasium in a school building. The equipment used for temperature monitoring must have a full range accuracy of plus or minus two degrees Fahrenheit (1.1 degrees Celsius). The frequency of temperature measurement may vary in the programming of the automatic system or in the staff executed temperature monitoring plan based on outside temperatures but must be often enough to assure that occupied areas don't exceed temperature maximums.

(i) If the temperature readings taken in the classrooms, auditorium, or gymnasium are above 90 degrees Fahrenheit (36.3 degrees Celsius), the time shall be recorded and the temperature continuously monitored by the automatic system or the person measuring the temperature. If the temperature remains above 90 degrees Fahrenheit (36.3 degrees Celsius) for 90 consecutive minutes, the automatic system or person performing the monitoring shall alert the person in charge of the school and the person in charge shall order

the removal of all students from the affected areas of the school. The governing body shall not allow students to return to affected areas until the temperature is at or below 79 degrees Fahrenheit (26.1 degrees Celsius). If there are insufficient areas of the school to accommodate students at temperatures below 90 degrees Fahrenheit (36.3 degrees Celsius), then school officials shall provide an alternative environment that meets the above temperature requirement such as providing alternative instructional activities or employing portable cooling equipment. School officials shall notify parents of children with special health care needs.

(ii) The governing body shall have a written plan that identifies any groups of students that are unusually vulnerable to elevated temperatures and describes actions that will be taken when the recorded temperature in occupied classrooms, auditoriums or gymnasiums reaches 80 degrees Fahrenheit (26.7 degrees Celsius) and above. The written plan may be part of the school's emergency response plan.

(5) Maintenance of Heating, Ventilation and Air Conditioning Equipment.

(a) The governing body shall have qualified in-house or contracted service technicians conduct a heating, ventilating, and air-conditioning system inspection and necessary maintenance activities according to manufacturer recommendations at proper time intervals.

(b) If the school has a boiler or other mechanical units required to be inspected and certified for use, the governing body shall make sure that the most recent boiler inspection certificate is posted in the boiler room. The certificate must be issued by the Utah Division of Boiler and Elevator Safety or an inspector who has been approved and deputized by the Division of Boiler and Elevator Safety.

(6) Cleaning Physical Facilities.

(a) The governing body shall make sure that floors, walls, ceilings, and attached equipment are kept clean.

(b) In new or extensively remodeled schools, at least one utility sink or curbed floor sink shall be located on each floor. The governing body shall make sure personnel who perform cleaning tasks use this area for the cleaning of mops or similar wet floor cleaning tools and for the disposal of mop water or similar liquid wastes. The use of handwashing sinks for this purpose is prohibited.

(7) Custodian Closets.

(a) Custodial closets, equipment and supply storage rooms shall be kept clean and orderly and shall be kept locked if toxic supplies are present.

(b) Storerooms or cabinets shall be provided for cleaning materials, pesticides, paints, flammables, or other hazardous or toxic chemicals, and for tools and maintenance equipment. Materials incompatible due to potential contamination or potential chemical reactions shall be separated from one another. These areas shall be kept locked and not used for any other purpose that is incompatible with the materials stored and shall comply with the fire code and any state amendments to the fire code that have been adopted by the Utah State Legislature.

(c) Oiled mops, dust cloths, rags, and other materials subject to spontaneous combustion shall be properly stored in approved fire resistant containers as required by the fire code and any state amendments to the fire code that have been adopted by the Utah State Legislature.

R392-200-9. Health and Safety.

(1) Health.

(a) A centrally located room or area for emergency use in providing care for persons who are ill, injured or suspected of having any contagious disease must be located in each school. In schools built after 1987, a clinic room must be provided and shall have a handwashing sink with hot and cold running water, soap, individual towels, first aid supplies, and lockable cabinet space for storage of first-aid supplies. Clinic rooms or areas used for emergency treatment and first-aid shall be kept clean and maintained in good repair. The governing body shall have a written plan or policy available for review upon request by the local health department that states how a nurse or doctor can be contacted at any time the school is in session. Prior agreement shall have been made with the doctor or nurse to ensure availability. In addition, at least two designated individuals shall be on site that have a current Red Cross basic first aid and CPR certificate or equivalent training approved by the governing body.

(b) The governing body of each school shall ensure that:

(i) each emergency care room or clinic area is provided with a cot or bed that has a cleanable surface or cover;

(ii) disposable bedding is changed after each person's use; and

(iii) multi-use sheets or covers are laundered after each person's use.

(c) All prescription or over the counter medication administered by school personnel, and records required by Section [53A-11-604]53G-9-501 shall be stored in a secure refrigerator, drawer, or cabinet accessible only by those authorized to administer the medication.

(d) If a school has specified sleeping areas, the school shall provide these areas with cots, mats, or floor pads. Reusable covers supplied by the school must be easily cleanable and maintained in good repair. When in use, the covers must be cleaned between each user and at least weekly. Disposable covers must be discarded after each use.

(e) In high risk injury areas including shops, laboratories, places where theater props and scenery are built, life skills, playgrounds, and gymnasiums, the instructor must possess at a minimum, a current Red Cross basic first-aid certificate, or equivalent as determined by the governing body, and must be on site at all times when classes are being held. A readily accessible first-aid kit that is appropriate for the risks in the area must be available at the school. School buses shall also carry a first aid kit and bus drivers shall have a current Red Cross basic first aid certificate, or equivalent training as determined by the governing body.

(2) Safety.

(a) Instructional, athletic, or recreational equipment shall be kept clean, safe, and in good repair.

(b) Playground equipment shall be installed and maintained in accordance with the Handbook for Public Playground Safety, U.S. Consumer Product Safety Commission, Publication Number 325, April 2008 Revision.

(c) Handrails on stairways, ramps, and outside steps shall be in compliance with the building code adopted by the Utah Legislature under Section 15A-2-103, and shall be properly maintained.

(d) A master shut-off valve to flammable gas supply lines in science laboratories, life skills areas, shops, and other rooms that utilize gas supply lines, shall be readily accessible to instructors for emergency shut off.

(e) A master electric shut off switch shall be readily accessible to instructors in life skills areas, shop classrooms, applicable art rooms, and labs where electrically operated instructional equipment are present that may be a safety hazard to the operator.

(f) All instructional shop classrooms, art rooms, craft rooms, and laboratories shall be kept clean and maintained in good condition. Cleaning and sweeping of these rooms shall be done in a way to minimize dust.

(g) The governing body of the school shall ensure that specific safety directions accompany substances that are deemed potentially harmful or hazardous to the health and safety of individuals who use them. The directions shall include the proper use, storage, handling and disposal of the substance and the potential risks or hazards associated with the substance. Designated personnel shall ensure that Material Safety Data Sheets (MSDS) for all chemicals used at the school are available at all times for review by staff or students that use the product and for review by the local health or safety inspectors during inspections.

(h) In high risk injury areas, the class instructor shall ensure that provisions, including the development and posting of operating instructions, regulations, or procedures are posted and reviewed by students in these areas. Students must demonstrate to the instructor knowledge of and safety practices for each piece of equipment prior to any use by the student. The instructor shall ensure that all safety guards are in place and operational on shop equipment.

(i) The class instructor shall train and direct students operating power equipment to not wear loose clothing including ties, lapels, cuffs, torn clothing or similar garments that can become entangled in power equipment.

(ii) The class instructor shall train and direct students that wrist watches, rings, or other jewelry are not to be worn in any class where they constitute a safety hazard.

(iii) The class instructor shall train and direct students to restrain their hair if there is a risk of hair entanglement in moving parts of power equipment.

(iv) The governing body shall sufficiently control exposure to noise, toxic dusts, gases, mists, fumes, or vapors so that a health hazard does not occur.

(v) The class instructor shall ensure that appropriate safety equipment is available and train and direct students to wear it while engaged in activities where there is exposure to hazardous conditions.

(vi) Safety zones shall be outlined on the floor around areas of equipment where there is danger of possible injury to students.

(vii) Emergency shower or eyewash stations shall be readily available in areas where there is a potential for accidental exposure to corrosive, poisonous, infectious, or irritating materials. The area around this safety equipment shall be kept free of clutter and encumbrances to its immediate use. The design and installation of emergency shower and eyewash stations shall meet the plumbing code adopted by the Utah legislature under Section 15A-2-103.

(i) Poisonous, dangerous or otherwise harmful plants or animals shall not be kept on the school premises unless it is in conjunction with a course curriculum. Poisonous or toxic plants must be labeled with their scientific name, and a warning sign posted describing the health risks and first aid instructions for skin contact or ingestion. A warning sign shall be posted on the confining area of

animals which are likely to carry disease; the sign shall state the disease causing organisms the animal is likely to be infected with and precautions to people should take to avoid disease.

(j) Flammable liquids, must be stored in a locked fire resistant area with access only by school assigned personnel. The storage area shall comply with the Utah state fire code and rules.

(k) Oxygen, acetylene, and other high pressure cylinders shall be secured, including empty cylinders, from tipping over. Safety valve hoods shall be kept in place when the tanks are not in use. Unless staged on a welding cart for use, empty or full oxygen and acetylene gas cylinders must be segregated by at least 20 feet or by a fire wall with a 30 minute rating at least five feet high.

(l) No flammable, explosive, toxic, or hazardous liquids, gases, or chemicals shall be placed, stored, or used in any building or part of a building used for school purposes, except in approved quantities as necessary for use in laboratories, instructional shop classes, and utility rooms. Hazardous liquids or gases shall be stored in tightly sealed containers and hazardous liquids, gases, and chemicals shall be stored in locked safety cabinets or locked storage rooms when not in use.

(m) Electrical wiring and components shall be maintained in good repair. Electrical panels must maintain a three foot clearance free of obstructions.

R392-200-10. Access.

The local health department representative, after showing proper identification, shall be granted access to enter any school at any reasonable time for the purpose of making inspections to determine compliance with this rule.

KEY: public health, schools

Date of Enactment or Last Substantive Amendment: ~~February 19, 2014~~**2018**

Notice of Continuation: November 7, 2016

Authorizing, and Implemented or Interpreted Law: 26-15-2; 26-1-30(9); 26-1-30(23); 26-1-5; 26-7-1

**Health, Disease Control and
Prevention, Environmental Services
R392-301
Recreational Vehicle Park Sanitation**

NOTICE OF PROPOSED RULE

(Repeal and Reenact)
DAR FILE NO.: 42730
FILED: 03/29/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These changes to Rule R392-301 simplify the rule, remove outdated language and redundancies, and provide technical and conforming changes in accordance with the Rulewriting Manual for Utah.

SUMMARY OF THE RULE OR CHANGE: These changes to Rule R392-301 provide technical and conforming changes throughout the rule and remove unnecessary and repetitive language. Section R392-301-1 is a new section added to specify the statute under which this rule is authorized, and to explain the purpose of this rule. Section R392-301-2 is a new section added to describe individuals and groups to whom this rule applies, and to specify exclusions to such. In Section R392-301-3, added definitions for: local health officer, operator, Plumbing Code, and tiny house; amended the definitions for: recreational vehicle, Dependent recreational vehicle, independent recreational vehicle, service building, and wastewater; and removed the definition for: self-Contained recreational vehicle. In Section R392-301-4, the Department of Health (Department) has made nonsubstantive revisions including the rewording and restructuring of this section to simplify the language and to clarify the intent to align more closely with the authorizing statute and the Rulewriting Manual for Utah. Substantive changes include the addition of a provision, similar to a "grandfather clause", that specifies that a construction change is not required in any portion of a camp that was in compliance before this rule goes into effect. In Sections R392-301-5 and R392-301-6, the Department has made nonsubstantive revisions including the rewording and restructuring of these sections to simplify the language and to clarify the intent to align more closely with the authorizing statute and the Rulewriting Manual for Utah. In Section R392-301-7, specified the operator's duty to supply provisions for hand washing and solid waste disposal. In Section R392-301-8, incorporated the Plumbing Code by reference and removes any redundancy arising from the incorporation. In Section R392-301-9, the Department has made nonsubstantive revisions including the rewording and restructuring of these sections to simplify the language and to clarify the intent to align more closely with the authorizing statute and the Rulewriting Manual for Utah. In Section R392-301-10, the Department has made nonsubstantive revisions including the rewording and restructuring of this section to simplify the language and to clarify the intent to align more closely with the authorizing statute and the Rulewriting Manual for Utah. In Section R392-301-11, the Department has made nonsubstantive revisions including the rewording and restructuring of this section to simplify the language and to clarify the intent to align more closely with the authorizing statute and the Rulewriting Manual for Utah. In Section R392-301-12, the Department has made nonsubstantive revisions including the rewording and restructuring of this section to simplify the language and to clarify the intent to align more closely with the authorizing statute and the Rulewriting Manual for Utah. Section R392-301-13 is a new section that specifies the application of an authority granted a local health officer in Utah Title 26A. Section R392-301-14 is a new section that specifies the application of an authority granted to a local health officer in Utah Title 26A.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5 and Section 26-15-2 and

Section 26-7-1 and Subsection 26-1-30(23) and Subsection 26-1-30(9)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** Repealing and reenacting Rule R392-301 will not result in a cost or benefit to the state budget.
- ◆ **LOCAL GOVERNMENTS:** Repealing and reenacting Rule R392-301 will not result in a cost or benefit to local governments.
- ◆ **SMALL BUSINESSES:** Repealing and reenacting Rule R392-301 will likely not result in a cost or benefit to small businesses. There are 51 small businesses operating in the state under the NAICS code of 721211. These proposed rule changes do not require a construction change to any portion of a RV park that was in compliance with the law in effect at the time the RV park was constructed. In addition, the proposed reenacted rule does not include fees such as reservation fees, inspection fees, or permit fees. Repealing and reenacting Rule R392-301 may result in an inestimable fiscal cost if a business constructs a recreational vehicle park after the adoption of this rule. The full impact to a business cannot be estimated as the necessary data is unavailable because potential RV park location, layout, number of sites, water and wastewater accessibility, and operation and maintenance needs have not yet been considered by the business.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Repealing and reenacting Rule R392-301 will likely not result in a cost or benefit to persons other than small businesses, businesses, or local government entities because the proposed reenacted rule does not require a construction change to any portion of a RV park that was in compliance with the law in effect at the time the RV park was constructed. In addition, the proposed reenacted rule does not include fees such as reservation fees, inspection fees, or permit fees.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons may include newly constructed small and non-small recreational vehicle park businesses.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule was last revised in 1993. It has been updated and simplified at the request of the local health departments. There are four new sections: Section R392-301-1 sets out authority and purpose; Section R392-301-2 describes individuals and groups governed by this section; Section R392-301-12 sets out authority of a local health office to conduct inspections and investigations in accordance with the Utah Code; and Section R392-301-13 sets out the authority of a local health officer to close a recreational vehicle park or site in accordance with the Utah Code. After conducting a thorough analysis, it was determined that this proposed reenacted 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
 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 chrisonelson@utah.gov or mail at 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 05/15/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0

Net Benefits:	Fiscal	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses
 There are two non-small businesses in the industry in question (NAICS 721211) in Utah. These businesses will likely not experience a fiscal impact because the proposed rule does not require a construction change to any portion of a RV park that was in compliance with the law in effect at the time the camp was constructed. Repealing and reenacting Rule R392-301 may result in an inestimable fiscal cost to a non-small businesses that constructs a recreational vehicle camp after the adoption of this rule. The full impact to such a business cannot be estimated as the necessary data are unavailable because potential RV park location, layout, number of sites, water and wastewater accessibility, and operation and maintenance needs have not yet been considered by the business.

R392. Health, Disease Control and Prevention, Environmental Services.

R392-301. Recreational Vehicle Park Sanitation.

[R392-301-1. Definitions.

~~Recreational Vehicle – means a vehicular unit, other than a mobile home, designed as a temporary dwelling for travel, recreational and vacation use, which is either self-propelled or is mounted on or pulled by another vehicle, including: travel trailer, camp trailer, folding tent trailer, truck camper, or motor home.~~

~~Dependent Recreational Vehicle – means a recreational vehicle that is dependent upon a service building for toilet facilities, hand washing facilities, shower or bathing facilities and is not designed for the connection to water or sewer utilities.~~

~~Director – means the Executive Director of the Utah Department of Health.~~

~~Independent Recreational Vehicle – means a recreational vehicle equipped with a toilet, bath or shower which, to be functional, requires connection to outside water and sewer utilities.~~

~~Recreational Vehicle Park – means any site, tract or parcel of land on which facilities have been developed to provide temporary living quarters for two or more recreational vehicles. Such a park may be developed or owned by a private, public or non-profit organization catering to the general public or restricted to the organizational or institutional members and their guests only.~~

~~Sanitary Dump Station – means a properly designed and constructed facility intended to receive the discharge of wastewater from any holding tank or similar device installed in any recreational vehicle, and having a means of discharging the contents, in an acceptable manner, to an approved wastewater disposal system.~~

~~Self-Contained Recreational Vehicle – means a recreational vehicle which can function independent of connections to outside sewer and water utilities. It must contain at least a water-flush toilet and a sink which are connected to water storage and wastewater holding tanks within the recreational vehicle. Any additional plumbing fixtures included in the vehicle shall also be connected to the wastewater holding tank.~~

~~Service Building – means a building or room housing toilet, lavatory and bathing facilities, and such other facilities as may be required for the use of recreational vehicle park occupants.~~

~~Wastewater – means discharges from all plumbing facilities, such as rest rooms, kitchen and laundry fixtures, either separately or in combination.~~

R392-301-2. General.

~~2.1 It shall be the duty of each person operating a recreational vehicle park in the state of Utah to carry out the provisions of this rule. Each person operating a recreational vehicle park shall also have the duty of controlling the conduct of park occupants to this end, and shall make at least one daily inspection of the entire park for these purposes. Central toilet and washroom facilities shall be inspected as necessary by the park operator.~~

~~2.2 Severability – If any provision of this rule or its application to any person or circumstance is declared invalid, the application of such provision to other persons or circumstances, and the remainder of this rule, shall not be affected thereby.~~

~~2.3 Park sites shall be designed and constructed to provide adequate surface drainage, and shall be isolated from any existing or potential health hazard or nuisance.~~

~~2.4 All applicable local and state building, zoning, electrical, health, fire codes and all local ordinances shall be complied with.~~

R392-301-3. Water Supplies.

~~3.1 Potable water supply systems for use by recreational vehicle park occupants shall meet the requirements of the state of Utah rules relating to public drinking water supplies.~~

~~3.2 In addition to the requirements of the rules relating to public drinking water supplies, the design of water system facilities shall be based on the suppliers engineer's estimate of water demands, but shall in no case be less than the following:~~

~~3.2.1 For independent and self-contained recreational vehicles:~~

~~3.2.1.1 Source Capacity – 100 gallons per day per vehicle space.~~

~~3.2.1.2 Storage Volume – 50 gallons per vehicle space.~~

~~3.2.1.3 Distribution system capacity shall maintain a water system pressure in excess of 20 psi at all points in the distribution system during peak hourly flow conditions. Non-community systems in remote areas can be exempted from this requirement, on a case-by-case basis, if flow from the system is always unregulated and free-flowing. The peak hourly flow shall be based on Figure 3.1.~~

~~Other exceptions to the above requirements may be made as permitted by the state of Utah public drinking water rules.~~

~~3.2.1.4 Any space set aside for the exclusive use of self-contained recreational vehicles shall have access to a water supply acceptable to the Director, or director of the local health department.~~

~~3.2.2 For the service building serving dependent recreational vehicles:~~

~~3.2.2.1 Source Capacity – 100 gallons per day per vehicle space.~~

~~3.2.2.2 Storage Volume – 50 gallons per vehicle space.~~

~~3.2.2.3 Distribution system capacity shall maintain a water system pressure in excess of 20 psi at all points in the distribution system during peak hourly flow conditions. Non-community systems in remote areas can be exempted from this requirement, on a case-by-~~

ease basis, if flow from the system is always unregulated and free-flowing. The peak hourly flow shall be calculated for the number of fixture units as presented in the Utah Plumbing Code.

Other exceptions to the above requirements may be made as permitted in the state of Utah public drinking water rules.

3.3 The source and storage requirements as indicated above do not include water demands for outside use or fire protection. However, if the culinary system is intended to provide water for such uses, the water requirements indicated above must be appropriately increased. Specific information on watering requirements (e.g., area of land to be irrigated) must be provided for Department of Health review.

3.4 Construction of a public drinking water supply system intended to serve occupants of any recreational vehicle park shall not commence until plans prepared by a licensed professional registered engineer, in accordance with Title 58, Chapter 22, Professional Engineers, and Land Surveyors Licensing Act, have been submitted to and approved in writing by the Utah Department of Environmental Quality. Following construction, the system may not be placed in service until a final inspection is made by a representative of the Utah Department of Environmental Quality or the local health department having jurisdiction.

3.4.1 All systems must be monitored in accordance with the state of Utah public drinking water rules and in cooperation with the local health department having jurisdiction.

3.5 Any culinary system or portion thereof that becomes drained seasonally must be cleaned, flushed and disinfected prior to use. Furthermore, a water sample of satisfactory bacteriologic quality, i.e. a sample showing no more than one coliform bacteria per 100 ml. sample, must be obtained before being placed into service.

3.5.1 Systems operated on a seasonal basis may be required to sample for bacteriologic analysis at an accelerated frequency as determined by the Director or director of the local health department having jurisdiction.

3.6 In any recreational vehicle park the following requirements shall apply:

3.6.1 Water service shall be made available to each designated recreational vehicle space in accordance with the requirements of the Utah Department of Health. This provision may be modified when spaces are provided to accommodate dependent or self-contained units only, in which case a conveniently located on-threaded hydrant or other acceptable water supply fixture shall be provided and shall be protected against the hazards of backflow and hose contamination.

3.6.2 Water connections serving independent recreational vehicles shall be at least 4 inches above the surrounding surface elevation and shall be separated at least 5 feet horizontally from the sewer riser for such vehicles. Lines serving water and sewer connections shall be separated at least 10 feet horizontally except as provided below:

3.6.2.1 The bottom of the water service pipe, at all points, shall be at least 18 inches above the top of the wastewater drainage line at its highest point, and in no instance less than 24 inches horizontal separation.

3.6.2.2 The water service pipe shall be placed on an undisturbed shelf excavated at one side of the common trench.

3.6.2.3 The number of joints in the water and sewer pipe shall be kept to a minimum. The materials and joints of both water and

sewer pipe shall be of a strength and durability and installed in accordance with the provisions of the Utah Plumbing Code.

3.7 In any recreational vehicle park or portion thereof where it is not feasible to pipe water into the area, an alternate supply may be permitted upon approval of the Director or local health authorities having jurisdiction.

R392-301-4. Wastewater.

4.1 All wastewater shall be discharged to a public sewer system where accessible within 30 feet of the recreational vehicle park property line.

4.2 Where connection to a public sewer is not available, wastewater shall be discharged into a wastewater disposal system meeting requirements of the state rules for waste disposal. Unless water usage rates are available, design shall be based on not less than 125 gallons per day per recreational vehicle space.

4.3 All plans for the construction or alteration of a wastewater disposal system shall initially be submitted to the local health department having jurisdiction. Where plan approval is required by law to be provided by the Department of Environmental Quality, such plans shall be forwarded by the local authority along with any appropriate comments. Construction or alteration of the disposal system shall not commence until the plans have been approved in writing by the appropriate health agency.

4.3.1 Sewer service shall be made available to each designated space designed and intended to accommodate independent recreational vehicles, in accordance with the requirements of the rules for waste disposal.

4.3.2 Sewer risers serving independent recreational vehicles shall be provided with tight covers when not in use.

4.3.3 A trap is prohibited between the sewer riser and sewer lateral.

4.3.4 The connection and connecting line between the recreational vehicle drain outlet and the sewer riser shall be watertight and self-draining.

4.3.5 The rim of the sewer riser shall extend not more than 4 inches above adjacent ground surface elevations. Surface drainage shall be directed away from the sewer riser. (See also Subsection 3.6.2)

4.3.6 Camping vehicles, not equipped with plumbing fixtures shall not be located in a camping vehicle park unless effective means are provided to collect and contain dish washing, bathing or other liquid waste material and to properly dispose of these wastes by means approved for the purpose to prevent discharge upon the ground.

4.4 A sanitary station of approved design shall be provided for the disposal of wastewater originating in any recreational vehicle when not covered under Subsection 4.3.1. The design shall be based on not less than 50 gallons per day per "self-contained" trailer space.

R392-301-5. Service Building.

5.1 In any recreational vehicle park which accepts patrons with dependent vehicles or tents, adequate service building facilities shall be provided and shall meet the following requirements:

5.1.1 They shall be located not less than 15 feet and not more than 500 feet from any living spaces served.

5.1.2 They shall be of permanent construction and be provided with adequate light, heat and ventilation.

5.1.3 They shall be properly maintained and operated with interiors of smooth, moisture resistant materials, to permit frequent washing and cleaning.

5.1.4 They shall be adequately equipped with lavatories with water under adequate pressure, and with flush type toilet fixtures to serve all recreational vehicle parking spaces not otherwise provided with such facilities.

R392-301-6. Plumbing.

6.1 The minimum plumbing fixtures which shall be available to all park occupants are as follows, except as indicated in Subsection 6.8:

6.2 Approved sanitary drinking fountains shall be provided for the use of occupants at a ratio of one per 300 occupants.

6.3 Whenever toilet facilities for male and females are located in the same building, and adjacent to each other, they shall be separated by a sound-resistant wall. Direct line of sight to each rest room shall be effectively obstructed.

6.4 Adequate, clean individual towels shall be supplied for each guest not furnishing his own. Other approved hand-drying facilities may be substituted for individual towels.

6.5 Soap and toilet tissue in suitable dispensers and waste receptacles with lids shall be provided in each rest room.

6.6 Essential laundering facilities should be available to park occupants. If included as part of the park facilities, there shall be provided for each 12 parking spaces, or fraction thereof, at least one laundry tray, washtub or washing machine, served by proper wastewater disposal facilities.

6.7 Plumbing fixtures which normally require water for their operation shall be supplied with an adequate potable water supply under pressure.

6.8 Where water cannot be made available, exceptions to the above requirement may be granted upon approval of the Director or local health authorities having jurisdiction.

6.9 All plumbing installed in any recreational vehicle park shall comply with provisions of the Utah Plumbing Code and local plumbing codes.

R392-301-7. Operation and Maintenance.

7.1 All buildings, rooms, and equipment and the grounds surrounding them shall be maintained in a clean and operable condition.

7.2 Where electric power is available, service buildings shall be provided with outside lighting to indicate the location and entrance doorways of each.

7.3 All necessary means shall be employed to eliminate or control any infestations of insects and rodents within all parts of any recreational vehicle park. This shall include proper screening or other approved control of outside openings in structures intended for occupancy or for food storage.

R392-301-8. Swimming Pools.

8.1 Each swimming pool, wading or therapy pool made available to occupants shall comply with R392-302 and applicable local regulations.

R392-301-9. Solid Wastes.

9.1 Solid wastes, originating in any recreational vehicle park, shall be stored in a sanitary manner in approved, watertight

containers with lids, or the equivalent, approved by the local health department. The containers shall be conveniently located and the contents shall be disposed of in a manner approved by the state or local health department having jurisdiction.

R392-301-10. Food Service.

10.1 When food service is made available to park occupants, food service employees, food, ice, vending machines, food storage, preparation and serving facilities shall comply with the requirements of R392-100.

TABLE I
Plumbing Fixtures Ratio of Plumbing Fixtures
Per Number of Camp Occupants(1)

	Males	Females
Water closets	1/50	1/25
Urinals	1/50	
Lavatories	1/50	1/50
Shower(2)	1/35	1/35

(1) Or fraction thereof. The number of park occupants shall be calculated on the basis of 3.5 persons for each recreational vehicle space.

(2) Showers are optional, but if provided shall comply with the table. Water system requirements under Subsection 3-2 may be modified to compensate for the absence of showers upon approval of the Director.

TABLE II
Required Plumbing Fixtures
Labor Camp Occupants for Service Buildings

Plumbing Fixtures	Ratio of Plumbing Fixtures For Labor Camp Occupants(1)	Males	Females
Water Closets	1/10	1/8	
Urinals	1/25		
Lavatories	1/12	1/12	
Shower/Bath	1/8	1/8	

(1) In camps which provide other than water flush type toilets, urinals, lavatories and showers may be deleted.

R392-301-1. Authority and Purpose.

(1) This rule is authorized under Sections 26-1-5, 26-1-30(9) and (23), 26-7-1, and 26-15-2.

(2) This rule establishes minimum standards for the sanitation, operation, and maintenance of a recreational vehicle park, as defined by this rule, and provides for the prevention and control of health hazards associated with a recreational vehicle park that are likely to affect individuals dwelling temporarily therein including risk factors contributing to injury, sickness, death, and disability.

R392-301-2. Applicability.

This rule applies to any person who owns or operates a recreational vehicle park, unless specifically exempted by this rule. This rule applies to the repair, maintenance, use, operation, and occupancy of recreational vehicle parks designed, intended for use, or otherwise used for temporary human habitation.

R392-301-3. Definitions.

For the purposes of this rule, the following terms, phrases, and words shall have the meanings herein expressed:

(1) "Building Code" means International Building Code as incorporated and amended in Title 15A, State Construction and Fire Codes Act.

(2) "Dependent recreational vehicle" means a recreational vehicle that is dependent upon a service building for toilet facilities, hand washing facilities, or shower or bathing facilities, and is not designed for connection to water, sewer, or electrical utilities.

(3) "Independent recreational vehicle" means a recreational vehicle equipped with electrical appliances, a water-flush toilet, and a sink and bath or shower which, to be functional, may require connection to outside electrical, water, and sewer utilities.

(4) "Local health officer" means the health officer of the local health department having jurisdiction, or a designated representative.

(5) "Operator" means a person responsible for managing or operating a recreational vehicle park.

(6) "Plumbing Code" means International Plumbing Code as incorporated and amended in Title 15A, State Construction and Fire Codes Act.

(7) "Recreational vehicle" means a vehicular unit, other than a mobile home, designed as a temporary dwelling for travel, recreational and vacation use, which is either driven or is mounted on or pulled by another vehicle, including: travel trailer, camp trailer, fifth-wheel trailer, folding tent trailer, truck camper, or motorhome.

(8) "Recreational vehicle park" or "RV park" means any site, tract or parcel of land on which facilities have been developed to provide temporary living quarters for two or more recreational vehicles. Such a park may be developed or owned by a private, public or non-profit organization catering to the public or restricted to the organizational or institutional members and their guests only.

(9) "Sanitary dump station" means a facility designed:

(a) in accordance with requirements set by Plumbing Code and the Utah Department of Environmental Quality, Division of Water Quality;

(b) to receive the discharge of wastewater from any holding tank or similar device installed in any recreational vehicle; and

(c) to discharge the contents, in an acceptable manner, to an approved wastewater disposal or treatment system.

(10) "Service building" means a structure within a recreational vehicle park that contains toilet, hand sink, and bathing facilities. It may also include laundry facilities, a vending area, or other service type facilities for RV park occupant use.

(11) "Tiny house", for the purposes of this rule, means a house ranging from 100 to 400 square feet built on a chassis with wheels and designed as temporary living quarters for recreational camping or seasonal use, but not a year-round human dwelling.

(12) "Wastewater" means discharges from all plumbing facilities including rest rooms, kitchen, and laundry fixtures either separately or in combination.

R392-301-4. General.

(1)(a) This rule does not require a construction change in any portion of a RV park if the park was in compliance with the law in effect at the time the park was constructed, except as in Subsection R392-301-4(1)(b).

(b) The local health officer may require construction changes if it is determined the RV park or portion thereof is dangerous, unsafe, unsanitary, or a nuisance or menace to life, health, or property.

(2) The operator shall carry out the provisions of this rule.

(3) Severability - If any provision of this rule or its application to any person or circumstance is declared invalid, the application of such provision to other persons or circumstances, and the remainder of this rule, shall not be affected thereby.

(4) The operator shall comply with all applicable building, zoning, electrical, health, fire codes and all local ordinances.

(5)(a) For RV parks with ten or more sites, the operator shall designate a manager or park attendant to be on duty within the RV park or on call at all times that the RV park is occupied.

(b) For RV parks with fewer than ten sites, the operator shall post contact information for a designated responsible individual in a location where it is easily visible to RV park occupants.

(6) A recreational vehicle park operator or agent shall select or construct a location for the facility that will provide adequate surface drainage. The operator shall make a reasonable effort to locate the facility away from any known existing public health nuisance.

(7) When an operator accommodates dependent recreational vehicles or tents, the operator shall construct and maintain a service building according to the requirements of Section R392-301-7.

(8) A recreational vehicle or a tiny house may be allowed in a RV Park only when:

(a) a data plate or permanent label is attached to the structure that includes:

(i) name of the manufacturer;

(ii) serial number or vehicle identification number (VIN) of the unit;

(iii) date of manufacture; and

(iv) a statement that the unit is designed and manufactured to NFPA 1192 or ANSIA119.5 standards; and when

(b) it has been certified by the Recreational Vehicle Industry Association; or

(c) it has been inspected by a qualified third-party inspection company and certified to be in compliance with the standards in NFPA 1192 or ANSIA119.5.

(9) An electrical installation in a RV park shall comply with Utah Code Title 15A.

R392-301-5. Water Supply.

(1) Potable water supply systems for use by recreational vehicle park occupants shall be designed, installed, and operated according to the requirements set forth by:

(a) Plumbing Code;

(b) The Utah Department of Environmental Quality, Division of Drinking Water under Title R309; and

(c) Local health department regulations.

(2) The operator shall provide potable water to each site designed and intended for recreational vehicle use.

(a) This provision may be modified with approval by the local health officer if a service building is provided as in Subsection R392-301-4(7).

(b) Where individual water connections are not provided to sites, common-use water faucets shall be accessible to RV park occupants, and located not more than 300 feet from any site. A threaded spigot is prohibited on any such common-use water faucet providing potable water to a site.

(c) The operator shall design and construct the area immediately around a water faucet (i.e. spigot) to promote surface drainage by using a constructed drain system such as a gravel pit, subsurface drywell, French drain, or seepage trench. The operator shall

prevent water in this area from flowing into traffic areas and surface waters, or from pooling, standing, or becoming stagnant.

(d) The operator shall protect water systems against the hazards of cross-connection, backflow, and interior surface contamination of attached hoses.

(3) In any recreational vehicle park or portion thereof where it is not feasible to pipe potable water into the area, an alternate supply of potable water may be permitted upon approval of the local health officer.

R392-301-6. Wastewater.

(1) All wastewater shall be discharged to a public sanitary sewer system whenever practicable.

(a) Sewer systems for use by recreational vehicle park occupants shall be designed, installed, and operated according to the requirements set forth by:

(i) Plumbing Code;

(ii) The Utah Department of Environmental Quality, Division of Water Quality under Title R317;

(iii) local health department regulations; and

(iv) the local sewer district having jurisdiction.

(b) Where connection to a public sewer is not available, wastewater shall be discharged into an approved wastewater disposal system meeting the requirements of Title R317, Environmental Quality, Water Quality, and local health department regulations.

(c) The operator shall submit all required plans for the construction or alteration of a wastewater disposal system in accordance with Title R317 prior to commencing construction or alteration.

(2) The operator shall provide a sanitary dump station unless all sites are connected to an approved sewer system. Unless a local health officer approves other means, the operator shall design and construct the sanitary dump station to include the following:

(a) Easy ingress and egress from a service road for recreational vehicles and located not less than 50 feet from any site;

(b) The sewage inlet surrounded by a curbed concrete apron or trough of at least three feet by three feet, sloped to the inlet, and provided with a suitable hinged cover milled to fit tight;

(c) A means for flushing with pressurized water the immediate area and the recreational vehicle wastewater holding tank(s).

(3) If the operator makes sewer service available to each designated site designed and intended to accommodate independent recreational vehicles, the operator shall design, install, operate, and maintain individual connections to the sewer system according to the requirements set by:

(a) Plumbing Code;

(b) the Utah Department of Environmental Quality, Division of Water Quality;

(c) local health department regulations; and

(d) local sewer district having jurisdiction.

(4) The operator shall provide tight-fitting covers for all sewer risers.

(5) A trap is prohibited between the sewer riser and sewer lateral.

(6) The connection and connecting line between the recreational vehicle drain outlet and the sewer riser shall be watertight and self-draining.

(7) The rim of the sewer riser shall extend not more than 4 inches above adjacent ground surface elevations. Surface drainage shall be directed away from the sewer riser.

(8) The operator shall prohibit dependent recreational vehicles and tents in a recreational vehicle park unless effective means are provided to collect and contain dishwashing, bathing or other liquid waste material and to properly dispose of these wastes by means approved by the local health officer.

(9) If the operator provides laundering facilities, the equipment shall discharge wastewater as required in Subsection R392-301-6(1).

R392-301-7. Service Building.

(1) All structures used in a recreational vehicle park shall be of permanent construction, meeting the requirements of Building Code.

(2) Each recreational vehicle park in which sites are set aside for dependent recreational vehicles or tents, as in R392-301-4(7), shall be provided with a service building or buildings for the use of park occupants.

(3) Service buildings shall meet the following requirements:

(a) Except as provided in Subsection R392-301-7(3)(b)(i), separate toilet rooms within the service building shall be provided for each sex. These rooms shall be distinctly marked "for men" and "for women" by signs printed in English, or marked with easily understood pictures or symbols.

(b) Each service building shall have one toilet, one hand sink, and one bath fixture for each sex for each 15 sites set aside in Subsection R392-301-4(7), or fraction thereof.

(i) Where a toilet room will be occupied by no more than one person at a time, can be locked from the inside, and contains at least one toilet, separate toilet rooms for each sex need not be provided.

(c) A service building shall be located not less than 15 feet and not more than 500 feet from any site designated for dependent recreational vehicles.

(d) A service building shall be provided with adequate light, heat and ventilation.

(e) A service building shall be properly maintained clean and shall be constructed of smooth, moisture resistant finish materials to withstand frequent washing and cleaning.

(4) The operator shall maintain each service building in a clean and sanitary condition.

(5) Clean individual disposable towels shall be provided near handwashing sinks. Alternate hand drying methods approved by the local health officer may be substituted for individual disposable towels.

(6) The operator shall provide soap and waste receptacles with lids in each service building.

(7) For each toilet room within a service building, the operator shall provide:

(a) toilet tissue in suitable dispensers; and

(b) at least one solid, easily cleanable, covered waste receptacle for the collection of solid waste; or

(c) at least one solid, easily cleanable, uncovered waste receptacle and a sanitary napkin receptacle.

R392-301-8. Operation and Maintenance.

(1) The operator shall maintain all buildings, rooms, and equipment, including furnishings and equipment in RV park areas, and the grounds surrounding them in a clean and operable condition, free of litter and debris.

(2) Where electric power is available, service buildings shall be equipped with outside lighting to indicate the location and entrance doorways of each.

(3) Where necessary, all reasonable means shall be employed to eliminate or control infestations of vermin, vectors, or pests within all parts of a RV park. This shall include approved screening or other approved control of outside openings in structures intended for occupancy.

(4) The operator shall maintain interior roads and parking areas in a manner that prevents harborage for vermin or fugitive dust.

R392-301-9. Food Service.

When food service is provided for RV park occupants, food service, storage, and preparation shall comply with the FDA Model Food Code as incorporated and amended in Rule R392-100 and local health department regulations.

R392-301-10. Solid Wastes.

(1) The operator shall provide adequate containers to prevent the accumulation of solid waste in the RV park.

(2) Solid waste generated at a RV park or picnic area shall be stored in a leak-proof, non-absorbent container, which shall be kept covered with a tight-fitting lid.

(3) All solid wastes shall be disposed with sufficient frequency and in such a manner as to prevent insect breeding, rodent harborage, or a public health nuisance.

R392-301-11. Swimming Pools.

The operator shall comply with Rule R392-302, Design, Construction, and Operation of Public Pools as well as other local health department regulations for all pools or spas made available to RV park occupants or staff.

R392-301-12. Inspections and Investigations.

(1)(a) Upon presenting proper identification, the operator shall permit the local health officer to enter upon the premises of a recreational vehicle park to perform inspections, investigations, reviews, and other actions as necessary to ensure compliance with Rule R392-301.

(b) The local health officer may not enter an occupied recreational vehicle without the express permission of the occupant except when a warrant is issued to a duly authorized public safety officer which authorizes the local health officer to enter, or when the operator and the local health officer determine that there exists an imminent risk to the life, health, or safety of the occupant.

R392-301-13. Closing or Restricting Use of Recreational Vehicle Parks or Sites.

(1) If a local health officer deems a recreational vehicle park, site, space, or portion thereof to be an imminent risk to the life, health, or safety of the public, the park, site, or space may be closed or its use may be restricted, as determined by the local health officer.

(2) The operator shall restrict public access to the impacted area of any recreational vehicle park, site, or space closed or restricted

to use by a local health officer within a reasonable time as ordered by the local health officer.

(3) It shall be unlawful for an operator to allow the public to utilize any recreational vehicle park, unit, space, or portion thereof that has been deemed unfit for use until written approval of the local health officer is given.

KEY: public health, recreation areas, RV parks, recreational vehicles

Date of Enactment or Last Substantive Amendment: 1993

Notice of Continuation: November 8, 2016

Authorizing, and Implemented or Interpreted Law: 26-1-5; 26-1-30(9); 26-1-30(23); 26-7-1; 26-15-2

Health, Disease Control and Prevention, Environmental Services **R392-302** Design, Construction and Operation of Public Pools

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42744

FILED: 03/30/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This change updates the list of authorizing statutes, fixes typos, and introduces a definition and a new section in response to comments from the Administrative Rules Review Committee.

SUMMARY OF THE RULE OR CHANGE: Nonsubstantive changes: 1) updated the list of authorizing statutes to include Subsection 26-1-30(9) and Section 26-7-1; 2) added the inches equivalent for signage requirements in Subsection R392-302-38(2)(b); 3) added a footnote to Table 6 reflecting the current language in Subsection R392-302-27(1)(b)(i); 4) fixed the numbering in Section R392-302-21; 5) capitalized "department" when referring to the Utah Department of Health; 6) fixed typo in Subsection R392-302-39(3)(c) to require rules lettering to be 0.5 inches tall instead of 1.5 inches; and 7) added a definition of "Instructional Pool". Substantial revision to the Special Purpose Pool section. This has been divided into separate sections for each type of special purpose pool. A new section is added for Instructional Pools. Changes made throughout the rule to reflect the new section numbers. Exemption to this rule given to instructional pools for three years. During this time, the Utah Department of Health (Department) will investigate the public health-related experiences and science of instructional pools operating with the exemption. Requires pools operating under this exemption to post signage and to obtain parent's acknowledgement.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5 and Section 26-15-2 and Section 26-7-1 and Subsection 26-1-30(23) and Subsection 26-1-30(9)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There are anticipated costs to the state budget of \$330/year due to laboratory costs for testing of total coliform and plate counts.

◆ **LOCAL GOVERNMENTS:** This rule change will affect new construction of a pool if it meets the requirements to be an instructional pool. This rule change does not require construction or operational changes to existing facilities. A local government building an instructional pool may have an approximate savings of 80% to 90% of the construction costs as compared to meeting the requirements of the current rule. There may be ongoing savings in operating costs due to the proposed exemptions. The Department is unable to estimate this benefit due to the wide range of possible options involved (size, features, types of disinfectant, plumbing, etc.).

◆ **SMALL BUSINESSES:** There are an estimated 11 swim school or swim instruction businesses from NAICS 611620, 611710, and 812199. There are an estimated 61 small businesses affected by this rule from NAICS 541330, 561790, 541690, 425120, 238992, 238991, and 236220, but an inestimable number from NAICS 713990, 713940, 531311, and 721110 as these businesses may or may not have swimming pools, and there is no reasonable method of determining such. In FY17 there were permitted 3,063 facilities, but the data is not available to determine which of these are small or non-small businesses. This rule change will affect new construction of a pool if it meets the requirements to be an instructional pool. This rule change does not require construction or operational changes to existing facilities. A small business building an instructional pool may have an approximate savings of 80% to 90% of the construction costs as compared to meeting the requirements of the current rule. There may be ongoing savings in operating costs due to the proposed exemptions. The Department is unable to estimate this benefit due to the wide range of possible options involved (size, features, types of disinfectant, plumbing, etc.).

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** No one specific person will be affected by this rule change.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons for the state is the Department. For local governments it is any municipality or county with a public pool; 13 local health departments. For small businesses it is 11 swim schools; an inestimable number of businesses and facilities with pools, or provide services to these facilities and pools. For other persons there are none identified.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There are 11 swim schools and an estimated 62 small businesses that may be affected by this rule. The amendments will affect new construction of an instructional

pool with an potential approximate savings of 80% to 90%. However, the Department is unable to estimate this benefit due to the wide range of possible options in said construction. After conducting a thorough analysis, it is determined that businesses will see a fiscal benefit from this amendment but due to the wide range of construction options, the benefit is inestimable.

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 chrisonelson@utah.gov or mail at 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 05/15/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

	FY 2018	FY 2019	FY 2020
Fiscal Costs			
State Government	\$330	\$330	\$330
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Costs:	\$330	\$330	\$330
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0

Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$-330	\$-330	\$-330

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

There are an estimated 41 non-small businesses from NAICS 713990, 713110, 713940, but an inestimable number of large businesses with pool facilities from NAICS 531311 and 721110. In FY17 there were permitted 3,063 facilities, but the data is not available to determine which of these are small or non-small businesses.

This rule change will affect new construction of a pool if it meets the requirements to be an instructional pool. This rule change does not require construction or operational changes to existing facilities.

A non-small business building an instructional pool may have a savings of 80% to 90% of the construction costs as compared to meeting the requirements of the current rule. There may be a savings in operating costs due to the proposed exemptions. The Department is unable to estimate this benefit due to the wide range of possible possibilities involved (size, features, types of disinfectant, plumbing, etc.).

R392. Health, Disease Control and Prevention, Environmental Services.

R392-302. Design, Construction and Operation of Public Pools.

R392-302-1. Authority and Purpose of Rule.

This rule is authorized under Sections 26-1-5, 26-1-30(9) and (23), 26-7-1, and 26-15-2. It establishes minimum standards for the design, construction, operation and maintenance of public pools and provides for the prevention and control of health hazards associated with public pools which are likely to affect public health including risk factors contributing to injury, sickness, death, and disability.

R392-302-2. Definitions.

The following definitions apply in this rule.

- (1) "AED" means automated external defibrillator.
- (2) "Backwash" means the process of cleaning a swimming pool filter by reversing the flow of water through the filter.
- (3) "Bather Load" means the number of persons using a pool at any one time or specified period of time.
- (4) "Cleansing shower" means the cleaning of the entire body surfaces with soap and water to remove any matter, including fecal matter, that may wash off into the pool while swimming.
- (5) "Collection Zone" means the area of an interactive water feature where water from the feature will be collected and drained for treatment.
- (6) "CPR" means Cardiopulmonary Resuscitation.
- (7) "Department" means the Utah Department of Health.
- (8) "Executive Director" means the Executive Director of the Utah Department of Health, or his designated representative.

(9) "Facility" means any premises, building, pool, equipment, system, and appurtenance which appertains to the operation of a public pool.

(10) "Float Tank" means a tank containing a skin-temperature solution of water and Epsom salts at a specific gravity high enough to allow the user to float supine while motionless and require a deliberate effort by the user to turn over and that is designed to provide for solitary use and sensory deprivation of the user.

(11) "Gravity Drain System" means a pool drain system wherein the drains are connected to a surge or collector tank and rather than drawing directly from the drain, the circulation pump draws from the surge or collector tank and the surface of the water contained in the tank is maintained at atmospheric pressure.

(12) "High Bather Load" means 90% or greater of the designed maximum bather load."

(13) "Hydrotherapy Pool" means a pool designed primarily for medically prescribed therapeutic use.

(14) "Illuminance Uniformity" means the ratio between the brightest illuminance falling on a surface compared to the lowest illuminance falling on a surface within an area. The value of illuminance falling on a surface is measured in foot candles.

(15) "Instructional Pool" means a pool used solely for purposes of providing water safety and survival instruction taught by a certified instructor. Instructional pools do not include private residential pools. Private residential pools used for swim instruction shall not be considered instructional pools as defined in this rule.

~~(16)~~ "Interactive Water Feature" means a recirculating water feature designed, installed or used for recreational use, in which there is direct water contact from the feature with the public, and when not in operation, all water drains freely so there is no ponding.

~~(17)~~ "Lamp Lumens" means the quantity of light, illuminance, produced by a lamp.

~~(18)~~ "Lifeguard" means an attendant who supervises the safety of bathers.

~~(19)~~ "Living Unit" means one or more rooms or spaces that are, or can be, occupied by an individual, group of individuals, or a family, temporarily or permanently for residential or overnight lodging purposes. Living units include motel and hotel rooms, condominium units, travel trailers, recreational vehicles, mobile homes, single family homes, and individual units in a multiple unit housing complex.

~~(20)~~ "Local Health Officer" means the health officer of the local health department having jurisdiction, or his designated representative.

~~(21)~~ "Onsite Septic System" means an approved onsite waste water system designed, constructed, and operated in accordance with Rule 317-4.

~~(22)~~ "Pool" means a man-made basin, chamber, receptacle, tank, or tub, above ground or in-ground, which, when filled with water, creates an artificial body of water used for swimming, bathing, diving, recreational and therapeutic uses.

~~(23)~~ "Pool Deck" means the area contiguous to the outside of the pool curb, diving boards, diving towers and slides.

~~(24)~~ "Pool Shell" means the rigid encasing structure of a pool that confines the pool water by resisting the hydrostatic pressure of the pool water, resisting the pressure of any exterior soil, and transferring the weight of the pool water (sometimes through other supporting structures) to the soil or the building that surrounds it.

(~~24~~~~25~~) "Private Residential Pool" means a swimming pool, spa pool or wading pool used only by an individual, family, or living unit members and guests, but not serving any type of multiple unit housing complex of four or more living units.

(~~25~~~~26~~) "Public Pool" means a swimming pool, spa pool, wading pool, or special purpose pool facility which is not a private residential pool and may be above ground or in-ground.

(~~26~~~~27~~) "Saturation Index" means a value determined by application of the formula for calculating the saturation index in Table 5, which is based on interrelation of temperature, calcium hardness, total alkalinity and pH which indicates if the pool water is corrosive, scale forming or neutral.

(~~27~~~~28~~) "Spa Pool" means a pool which uses therapy jet circulation, hot water, cold water, bubbles produced by air induction, or any combination of these, to impart a massaging effect upon a bather. Spa pools include, spas, whirlpools, hot tubs, or hot spas.

(~~28~~~~29~~) "Special Purpose Pool" means a pool with design and operational features that provide patrons recreational, instructional, or therapeutic activities which are different from that associated with a pool used primarily for swimming, diving, or spa bathing.

(~~29~~~~30~~) "Splash Pool" means the area of water located at the terminus of a water slide or vehicle slide.

(~~30~~~~31~~) "Swimming Pool" means a pool used primarily for recreational, sporting, or instructional purposes in bathing, swimming, or diving activities.

(~~31~~~~32~~) "Surge Tank" means a tank receiving the gravity flow from an overflow gutter and main drain or drains from which the circulation pump takes water which is returned to the system.

(~~32~~~~33~~) "Turnover" means the circulation of a quantity of water equal to the pool volume through the filter and treatment facilities.

(~~33~~~~34~~) "Vehicle Slide" means a recreational pool where bathers ride vehicles, toboggans, sleds, etc., down a slide to descend into a splash pool.

(~~34~~~~35~~) "Unblockable Drain" means a drain of any size or shape such that a representation of the torso of a 99 percentile adult male cannot sufficiently block it to the extent that it creates a body suction entrapment hazard.

(~~35~~~~36~~) "Wading Pool" means any pool or pool area used or designed to be used by children five years of age or younger for wading or water play activities.

(~~36~~~~37~~) "Waste Water" means discharges of pool water resulting from pool drainage or backwash.

(~~37~~~~38~~) "Water Slide" means a recreational facility consisting of flumes upon which bathers descend into a splash pool.

R392-302-3. General Requirements.

(1) This rule does not require a construction change in any portion of a public pool facility if the facility was installed and in compliance with law in effect at the time the facility was installed, except as specifically provided otherwise in this rule. However if the Executive Director or the Local Health Officer determines that any facility is dangerous, unsafe, unsanitary, or a nuisance or menace to life, health or property, the Executive Director or the Local Health Officer may order construction changes consistent with the requirements of this rule to existing facilities.

(2) This rule does not regulate any private residential pool. A private residential pool that is used for swimming instruction purposes shall not be regulated as a public pool.

(3) This rule does not regulate any body of water larger than 30,000 square feet, 2,787.1 square meters, and for which the design purpose is not swimming, wading, bathing, diving, a water slide splash pool, or children's water play activities.

(4) This rule does not regulate float tanks.

(5) All public pools shall meet the requirements of this rule unless otherwise specified in R392-302.

R392-302-4. Water Supply.

(1) The water supply serving a public pool and all plumbing fixtures, including drinking fountains, lavatories and showers, must meet the requirements for drinking water established by the Department of Environmental Quality.

(2) All portions of water supply, re-circulation, and distribution systems serving the facility must be protected against backflow. Water introduced into the pool, either directly or through the circulation system, must be supplied through an air gap or a backflow preventer in accordance with the International Plumbing Code as incorporated and amended in Title 15a, State Construction and Fire Codes Act.

(a) The backflow preventer must protect against contamination, backsiphonage and backpressure.

(b) Water supply lines protected by a backflow prevention device shall not connect to the pool recirculation system on the discharge side of the pool recirculation pump.

R392-302-5. Waste Water.

(1) Each public pool must connect to a public sanitary sewer or an onsite septic system.

(a) Each public pool must connect to a sanitary sewer or onsite septic system through an air break to preclude the possibility of sewage or waste backup into the piping system. Pools constructed and approved after December 31, 2010 shall be connected through an air gap.

(2) Each public pool shall discharge waste water:

(a) to a public sanitary sewer system when available within 300 feet of the property line with authorization by the local sanitary sewer authority; or

(b) to an onsite septic system when public sanitary sewer system is not within 300 feet of the property line or authorization is not available; or

(c) in accordance with Subsection R392-302-5(4) and Subsection R392-302-5(5) except for any public pool utilizing salt in the pool water.

(i) Public pools utilizing salt in the pool water shall only discharge waste water to a public sanitary sewer system or an onsite septic system which has been designed for such.

(3) A public pool shall not discharge waste water directly to storm sewers or surface waters.

(4) Except for pools utilizing salt in the pool water, a public pool may discharge waste water that is not backwash according to Subsection R392-302-5(5) if:

(a) a public sanitary sewer is not available within 300 feet of a property line or authorization to discharge to a sanitary sewer is not available; and

(b) an onsite septic system is not available or designed for the discharge amount.

(5) If a public pool meets the criteria of Subsection R392-302-5(4), the public pool shall reduce the disinfectant level to less than one part per million and:

(a) may discharge as irrigation in an area where the water will not flow into a storm drain or surface water; or

(b) may discharge on the facility's property as long as it does not flow off the property.

(6) Public pools shall not discharge waste water in a manner that will create a nuisance condition.

R392-302-6. Construction Materials.

(1) Each public pool and the appurtenances necessary for its proper function and operation must be constructed of materials that are inert, non-toxic to humans, impervious, enduring over time, and resist the effects of wear and deterioration from chemical, physical, radiological, and mechanical actions.

(2) All public pools shall be constructed with a pool shell that meets the requirements of this section R392-302-6. Vinyl liners that are not bonded to a pool shell are prohibited. A vinyl liner that is bonded to a pool shell shall have at least a 60 mil thickness. Sand, clay or earth walls or bottoms are prohibited.

(3) The pool shell of a public pool must withstand the stresses associated with the normal uses of the pool and regular maintenance. The pool shell shall by itself withstand, without any damage to the structure, the stresses of complete emptying of the pool without shoring or additional support.

(4) In addition to the requirements of R392-302-6(3), the interior surface of each pool must be designed and constructed in a manner that provides a smooth, easily cleanable, non-abrasive, and slip resistant surface. The pool shell surfaces must be free of cracks or open joints with the exception of structural expansion joints. The owner of a non-cementitious pool shall submit documentation with the plans required in R392-302-8 that the surface material has been tested and passed by an American National Standards Institute (ANSI) accredited testing facility using one of the following standards that is appropriate to the material used:

(a) for a fiberglass reinforced plastic spa pool, the International Association of Plumbing and Mechanical Officials (IAPMO) standard IAPMO/ANSI Z 124.7-2013;

(b) for a fiberglass reinforced plastic swimming pool, the IAPMO IGC 158-2000 standard;

(c) for pools built with prefabricated pool sections or pool members, the International Cast Products Association (ICPA) standard ANSI/ICPA SS-1-2001; or

(d) a standard that has been approved by the Department based on whether the standard is applicable to the surface and whether it determines compliance with the requirements of this section R392-302-6.

(5) The pool shell surface must be of a white or light pastel color.

R392-302-7. Bather Load.

(1) The bather load capacity of a public pool is determined as follows:

(a) Ten square feet, 0.929 square meters, of pool water surface area must be provided for each bather in a spa pool during maximum load.

(b) Twenty-four square feet, 2.23 square meters, of pool water surface area must be provided for each bather in an indoor swimming pool during maximum load.

(c) Twenty square feet, 1.86 square meters, of pool water surface area must be provided for each bather in an outdoor swimming pool during maximum load.

(d) Fifty square feet, 4.65 square meters, of pool water surface must be provided for each bather in a slide plunge pool during maximum load.

(2) The [d]Department may make additional allowance for bathers when the facility operator can demonstrate that lounging and sunbathing patrons will not adversely affect water quality due to overloading of the pool.

R392-302-8. Design Detail and Structural Stability.

(1) The designing architect or engineer is responsible to certify the design for structural stability and safety of the public pool.

(2) The shape of a pool and design and location of appurtenances must be such that the circulation of pool water and control of swimmer's safety are not impaired. The designing architect or engineer shall designate sidewalls and endwalls on pool plans.

(3) A pool must have a circulation system with necessary treatment and filtration equipment as required in R392-302-16, unless turnover rate requirements as specified in sub-section R392-302-16(1) can be met by continuous introduction of fresh water and wasting of pool water under conditions satisfying all other requirements of this rule.

(4) Where a facility is subject to freezing temperatures, all parts of the facility subject to freezing damage must be adequately and properly protected from damage due to freezing, including the pool, piping, filter system, pump, motor, and other components and systems.

(5) No new pool construction or modification project of an existing pool shall begin until the requirements of Subsection R392-302-8(6) have been met.

(6) The pool owner or designee shall submit a set of plans for a new pool or modification project of an existing pool to the local health department. This includes the replacement of equipment which is different from that originally approved by the local health department.

(a) The set of plans shall have sufficient details to address all applicable requirements of R392-302 and shall bear a stamp from an engineer licensed in the State of Utah.

(b) The local health department may exempt the pool owner from Subsection R392-302-8(6) for a modification of an existing pool if health and safety are not compromised.

(c) The set of plans shall be initially reviewed by the local health department and a letter of review sent by the local health department to the submitter, pool owner, or designee within 30 days of submittal.

(d) The pool owner shall make required changes to the plans to meet the local health department's review criteria.

(7) All manufactured components of the pool shall be installed as per manufacturer's recommendations.

R392-302-9. Depths and Floor Slopes.

(1) In determining the horizontal slope ratio of a pool floor, the first number shall indicate the vertical change in value or rise and the second number shall indicate the horizontal change in value or run of the slope.

(a) The horizontal slope of the floor of any portion of a pool having a water depth of less than 5 feet, 1.52 meters, may not be steeper than a ratio of 1 to 10 except for a pool used exclusively for scuba diving training.

(b) The horizontal slope of the floor of any portion of a pool having a water depth greater than 5 feet, 1.52 meters, must be uniform, must allow complete drainage and may not exceed a ratio of 1 to 3 except for a pool used exclusively for scuba diving training. The horizontal slope of the pool bottom in diving areas must be consistent with the requirements for minimum water depths as specified in Section R392-302-11 for diving areas.

R392-302-10. Walls.

(1) Pool walls must be vertical or within 11 degrees of vertical for a minimum distance of 2 feet 9 inches, 83.82 centimeters, below the water line in areas with a depth of 5 feet, 1.52 meters, or greater. Pool walls must be vertical or within 11 degrees of vertical for a minimum distance equal to or greater than one half the pool depth as measured from the water line.

(2) Where walls form an arc to join the floors, the transitional arc from wall to floor must:

(a) have its center no less than 2 feet 9 inches, 83.82 centimeters, below the normal water level in areas with a depth greater than 5 feet, 1.52 meters;

(b) have its center no less than 75% of the pool depth beneath the normal water level, in areas of the pool with a depth of 5 feet, 1.52 meters, or less;

(c) be tangent to the wall;

(d) have a radius at least equal to or greater than the depth of the pool minus the vertical wall depth measured from the water line, as described in Subsection R392-302-9(1), minus 3 inches, 7.62 centimeters, to allow draining to the main drain. Radius minimum = Pool Depth - Vertical wall depth - 3 inches, 7.62 centimeters, where the water depth is greater than 5 feet, 1.52 meters; and

(e) have a radius which may not exceed a length greater than 25% of the water depth, in areas with a water depth of 5 feet, 1.52 meters, or less.

(3) Underwater ledges are prohibited except when approved by the local health officer for a special purpose pool. Underwater ledges are prohibited in areas of a pool designed for diving. Where underwater ledges are allowed, a line must mark the extent of the ledge within 2 inches, 5.08 centimeters, of its leading edge. The line must be at least 2 inches, 5.08 centimeters, in width and in a contrasting dark color for maximum visual distinction.

(4) Underwater seats and benches are allowed in pools so long as they conform to the following:

(a) Seats and benches shall be located completely inside of the shape of the pool. Where seats and benches are not located on the perimeter walls of the pool, seats and benches shall have a wall on the back of the seats and benches that extend above the operating level of the pool and is clearly visible to users.

(b) The horizontal surface shall be a maximum of 20 inches, 51 centimeter, below the water line;

(c) An unobstructed surface shall be provided that is a minimum of 10 inches, 25 centimeters, and a maximum of 20 inches front to back, and a minimum of 24 inches, 61 centimeters, wide;

(d) Seats and benches shall not transverse a depth change of more than 24 inches, 61 centimeters;

(e) The minimum horizontal separation between sections of seats and benches shall be five feet, 1.52 meters.

(f) The pool wall under the seat or bench shall be flush with the leading edge of the seat or bench and meet the requirements of R392-302-10(1) and (2);

(g) Seats and benches may not replace the stairs or ladders required in R392-302-12, but are allowed in conjunction with pool stairs;

(h) Underwater seats may be located in the deep area of the pool where diving equipment (manufactured or constructed) is installed, provided they are located outside of the minimum water envelope for diving equipment; and

(i) A line must mark the extent of the seat or bench within 2 inches, 5.08 centimeters, of its leading edge. The line must be at least 2 inches, 5.08 centimeters, in width and in a contrasting dark color for maximum visual distinction.

(5) Recessed footholds are allowed so long as they are at least four feet, 1.21 meters, under water and meet the requirements of R392-302-12(5)(b) and (c).

R392-302-11. Diving Areas.

(1) Where diving is permitted, the diving area design, equipment placement, and clearances must meet the minimum standards established by the USA Diving Rules and Regulations 2004, Appendix B, which are incorporated by reference.

(2) Where diving from a height of less than 3.28 feet, 1 meter, from normal water level is permitted, the diving bowl shall meet the minimum depths outlined in Section 6, Figure 1 and Table 2 of ANSI/NSPI-1, 2003, which is adopted by reference, for type VI, VII and VIII pools according to the height of the diving board above the normal water level. ANSI/NSPI pool type VI is a maximum of 26 inches, 2/3 meter, above the normal water level; type VII is a maximum of 30 inches, 3/4 meter, above the normal water level; and type VIII is a maximum of 39.37 inches, 1 meter, above the normal water level.

(3) The use of a starting platform is restricted to competitive swimming events or supervised training for competitive swimming events.

(a) If starting platforms are used for competitive swimming or training, the water depth shall be at least four feet.

(b) The operator shall either remove the starting platforms or secure them with a lockable cone-type platform safety cover when not in competitive use.

(4) Areas of a pool where diving is not permitted must have "NO DIVING" or the international no diving icon, or both provided in block letters at least four inches, 10.16 centimeters, in height, as required in R392-302-[34]39[-](3)(a), in a contrasting color on the deck, located on the horizontal surface of the deck or coping as close to the water's edge as practical.

(a) Where the "NO DIVING" warnings are used, the spacing between each warning may be no greater than 25 feet, 7.62 centimeters.

(b) Where the icon alone is used on the deck as required, the operator shall also post at least one "NO DIVING" sign in plain view within the enclosure. Letters shall be at least four inches, 10.16 centimeters, in height with a stroke width of at least one-half inch.

R392-302-12. Ladders, Recessed Steps, and Stairs.

(1) Location.

(a) In areas of a pool where the water depth is greater than 2 feet, 60.96 centimeters, and less than 5 feet, 1.52 meters, as measured vertically from the bottom of the pool to the mean operating level of the pool water, steps or ladders must be provided, and be located in the area of shallowest depth.

(b) In areas of the pool where the water depth is greater than 5 feet, 1.52 meters, as measured vertically from the bottom of the pool to the mean operating level of the pool water, ladders or recessed steps must be provided.

(c) A pool over 30 feet, 9.14 meters, wide must be equipped with steps, recessed steps, or ladders as applicable, installed on each end of both side walls.

(d) A pool over 30 feet, 9.14 meters, wide and 75 feet, 22.8 meters, or greater in length, must have ladders or recessed steps midway on both side walls of the pool, or must have ladders or recessed steps spaced at equal distances from each other along both sides of the pool at distances not to exceed 30 feet, 9.14 meters, in swimming and diving areas, and 50 feet, 15.23 meters, in non-swimming areas.

(e) Ladders or recessed steps must be located within 15 feet, 4.56 meters, of the diving area end wall.

(f) No pool shall be equipped with fewer than two means of entry or exit as outlined above.

(2) Handrails.

(a) Handrails must be rigidly installed and constructed in such a way that they can only be removed with tools.

(b) Handrails must be constructed of corrosion resistant materials.

(c) The outside diameter of handrails may not exceed 2 inches, 5.08 centimeters.

(3) Steps.

(a) Steps must have at least one handrail. The handrail shall be mounted on the deck and extend to the bottom step either attached at or cantilever to the bottom step. Handrails may also be mounted in the pool bottom of a wading area at the top of submerged stairs that lead into a swimming pool; such handrails must also extend to the bottom step either attached at or cantilever to the bottom step.

(b) Steps must be constructed of corrosion-resistant material, be easily cleanable, and be of a safe design.

(c) Steps leading into pools must be of non-slip design, have a minimum run of 10 inches, 25.4 centimeters, and a maximum rise of 12 inches, 30.48 centimeters.

(d) Steps must have a minimum width of 18 inches, 45.72 centimeters, as measured at the leading edge of the step.

(e) Steps must have a line at least 1 inch, 2.54 centimeters, in width and be of a contrasting dark color for a maximum visual distinction within 2 inches, 5.08 centimeters, of the leading edge of each step.

(4) Ladders.

(a) Pool ladders must be corrosion-resistant and must be equipped with non-slip rungs.

(b) Pool ladders must be designed to provide a handhold, must be rigidly installed, and must be maintained in safe working condition.

(c) Pool ladders shall have a clearance of not more than 5 inches, 12.7 centimeters, nor less than 3 inches, 7.62 centimeters, between any ladder rung and the pool wall.

(d) Pool ladders shall have rungs with a maximum rise of 12 inches, 30.5 centimeters, and a minimum width of 14 inches, 35.6 centimeters.

(5) Recessed Steps.

(a) Recessed steps shall have a set of grab rails located at the top of the course with a rail on each side which extend over the coping or edge of the deck.

(b) Recessed steps shall be readily cleanable and provide drainage into the pool to prevent the accumulation of dirt on the step.

(c) Full or partial recessed steps must have a minimum run of 5 inches, 12.7 centimeters, and a minimum width of 14 inches, 35.56 centimeters.

R392-302-13. Decks and Walkways.

(1) A continuous, unobstructed deck at least 5 feet, 1.52 meters, wide must extend completely around the pool. The deck is measured from the pool side edge of the coping if the coping is flush with the pool deck, or from the back of the pool curb if the coping is elevated from the pool deck. Pool curbs shall be a minimum of 12 inches wide. The pool deck may include the pool coping if the coping is installed flush with the surrounding pool deck. If the coping is elevated from the pool deck, the maximum allowed elevation difference between the top of the coping surface and the surrounding deck is 19 inches, 38.1 centimeters. The minimum allowed elevation is 4 inches.

(2) Deck obstructions are allowed to accommodate diving boards, platforms, slides, steps, or ladders so long as at least 5 feet, 1.52 meters, of deck area is provided behind the deck end of any diving board, platform, slide, step, or ladder. Other types of deck obstructions may also be allowed by the local health officer so long as the obstructions meet all of the following criteria:

(a) the total pool perimeter that is obstructed equals less than 10 percent of the total pool perimeter; likewise, no more than 15 feet, 4.56 meters, of pool perimeter can be obstructed in any one location;

(b) multiple obstructions must be separated by at least five feet, 1.52 meters;

(c) an unobstructed area of deck not less than five feet, 1.52 meters, is provided around or through the obstruction and located not more than fifteen feet, 4.55 meters, from the edge of the pool.

(d) the design of the obstruction does not endanger the health or safety of persons using the pool; and

(e) written approval for the obstruction is obtained from the local health official prior to, or as part of, the plan review process.

(3) The deck must slope away from the pool to floor drains at a grade of 1/4 inch, 6.35 millimeters, to 3/8 inch, 9.53 millimeters, per linear foot.

(a) The Local Health Officer may allow decks to slope towards the pool for deck level gutter pools if it can be demonstrated that it will not adversely affect the pool's water quality and:

(i) the deck must slope back towards the pool for a maximum distance of five feet, 1.52 meters, from the water's edge; and

(ii) the portion of the deck that slopes back towards the pool must slope towards the pool at grade of 1/4 inch, six millimeters, to 3/8 inch, ten millimeters, per linear foot; and

(iii) a minimum of three feet, 91.4 centimeters, of deck that meets R392-302-13(3) must be provided beyond the high point of said deck.

(4) Decks and walkways must be constructed to drain away any standing water and must have non-slip surfaces.

(5) Wooden decks, walks or steps are prohibited.

(6) Deck drains may not return water to the pool or the circulation system.

(7) The operator shall maintain decks in a sanitary condition and free from litter.

(8) Carpeting may not be installed within 5 feet, 1.52 meters, of the water side edge of the coping. The operator shall wet vacuum any carpeting as often as necessary to keep it clean and free of accumulated water.

(9) Steps serving decks must meet the following requirements:

(a) Risers of steps for the deck must be uniform and have a minimum height of 4 inches, 10.2 centimeters, and a maximum height of 7 inches, 17.8 centimeters.

(b) The minimum run of steps shall be 10 inches, 25.4 centimeters.

(c) Steps must have a minimum width of 18 inches, 45.72 centimeters.

R392-302-14. Fencing and Barriers.

(1) A fence or other barrier is required and must provide complete perimeter security of the facility, and be at least 6 feet, 1.83 meters, in height. Openings through the fence or barrier, other than entry or exit access when the access is open, may not permit a sphere greater than 4 inches, 10.16 centimeters, to pass through it at any location. Horizontal members shall be equal to or more than 45 inches, 114.3 centimeters, apart.

(a) If the local health department determines that the safety of children is not compromised, it may exempt indoor pools from the fencing requirements.

(b) The local health department may grant exceptions to the height requirements in consideration of architectural and landscaping features for pools designed for hotels, motels and apartment houses.

(2) A fence or barrier that has an entrance to the facility must be equipped with a self-closing and self-latching gate or door. Except for self-locking mechanisms, self-latching mechanisms must be installed 54 inches, 1.37 meters, above the ground and must be provided with hardware for locking the gate when the facility is not in use. A lock that is separate from the latch and a self locking latch shall be installed with the lock's operable mechanism (key hole, electronic sensor, or combination dial) between 34 inches, 86.4 centimeters, and 48 inches, 1.219 meters, above the ground. All gates for the pool enclosure shall open outward from the pool.

(3) The gate or door shall have no opening greater than 0.5 inches, 1.27 centimeters, within 18 inches, 45.7 centimeters, of the latch release mechanism.

(4) Any pool enclosure which is accessible to the public when one or more of the pools are not being maintained for use, shall protect those closed pools from access by a sign meeting R392-302-[34]39[-](3)(a) indicating the pool is closed and by using:

(a) a safety cover which restricts access and meets the minimum ASTM standard F1346-91; or

(b) a secondary barrier that is approved by the Department;

or

(c) any method approved by the Department.

R392-302-15. Depth Markings and Safety Ropes.

(1) The depth of the water must be plainly marked at locations of maximum and minimum pool depth, and at the points of separation between the swimming and non-swimming areas of a pool. Pools must also be marked at intermediate 1 foot, 30.48 centimeters, increments of depth, spaced at distances which do not exceed 25 feet, 7.62 meters. Markings must be located above the water line or within 2 inches, 5.8 centimeters, from the coping on the vertical wall of the pool and on the edge of the deck or walk next to the pool with numerals at least 4 inches, 10.16 centimeters, high as required in R392-302-[34]39[-](3).

(2) A pool with both swimming and diving areas must have a floating safety rope separating the swimming and diving areas. An exception to this requirement is made for special activities, such as swimming contests or training exercises when the full unobstructed length of the pool is used.

(a) The safety rope must be securely fastened to wall anchors. Wall anchors must be of corrosion-resistant materials and must be recessed or have no projections that may be a safety hazard if the safety rope is removed.

(b) The safety rope must be marked with visible floats spaced at intervals of 7 feet, 2.13 meters or less.

(c) The rope must be at least 0.5 inches, 1.27 centimeters, in diameter, and of sufficient strength to support the loads imposed on it during normal bathing activities.

(3) A pool constructed with a change in the slope of the pool floor must have the change in slope designated by a floating safety rope and a line of demarcation on the pool floor.

(a) The floating safety rope designating a change in slope of the pool floor must be attached at the locations on the pool wall that place it directly above and parallel to the line on the bottom of the pool. The floating safety rope must meet the requirements of Subsections R392-302-15(2)(a),(b),(c).

(b) A line of demarcation on the pool floor must be marked with a contrasting dark color.

(c) The line must be at least 2 inches, 5.08 centimeters, in width.

(d) The line must be located 12 inches, 30.48 centimeters, toward the shallow end from the point of change in slope.

(4) The [d]Department may exempt a spa pool from the depth marking requirement if the spa pool owner can successfully demonstrate to the [d]Department that bather safety is not compromised by the elimination of the markings.

R392-302-16. Circulation Systems.

(1) A circulation system, consisting of pumps, piping, filters, water conditioning and disinfection equipment and other related equipment must be provided. The operator shall maintain the normal water line of the pool at the overflow rim of the gutter, if an overflow gutter is used, or at the midpoint of the skimmer opening if skimmers are used whenever the pool is open for bathing. An exemption to this requirement may be granted by the [d]Department if the pool operator can demonstrate that the safety of the bathers is not compromised.

(a) The circulation system shall meet the minimum turnover time listed in Table 1.

(b) If a single pool incorporates more than one the pool types listed in Table 1, either:

(i) the entire pool shall be designed with the shortest turnover time required in Table 1 of all the turnover times for the pool types incorporated into the pool or

(ii) the pool shall be designed with pool-type zones where each zone is provided with the recirculation flow rate that meets the requirements of Table 1.

(c) The Health Officer may require the pool operator to demonstrate that a pool is performing in accordance with the approved design.

(d) The operator shall run circulation equipment continuously except for periods of routine or other necessary maintenance. Pumps with the ability to decrease flow when the pool has little or no use are allowed as long as the same number of turnovers are achieved in 24 hours that would be required using the turnover time listed in Table 1 and the water quality standards of R392-302-27 can be maintained. The circulation system must be designed to permit complete drainage of the system.

(e) Piping must be of non-toxic material, resistant to corrosion and be able to withstand operating pressures.

(f) Plumbing must be identified by a color code or labels.

(2) The water velocity in discharge piping may not exceed 10 feet, 3.05 meters, per second, except for copper pipe where the velocity for piping may not exceed 8 feet, 2.44 meters, per second.

(3) Suction velocity for all piping may not exceed 6 feet, 1.83 meters, per second.

(4) The circulation system must include a strainer to prevent hair, lint, etc., from reaching the pump.

(a) Strainers must be corrosion-resistant with openings not more than 1/8 inch, 3.18 millimeters, in size.

(b) Strainers must provide a free flow capacity of at least four times the area of the pump suction line.

(c) Strainers must be readily accessible for frequent cleaning.

(d) Strainers must be maintained in a clean and sanitary condition.

(e) Each pump strainer must be provided with necessary valves to facilitate cleaning of the system without excessive flooding.

(5) A vacuum-cleaning system must be provided.

(a) If this system is an integral part of the circulation system, connections must be located in the walls of the pool, at least 8 inches, 20.32 centimeters, below the water line. This requirement does not apply to vacuums operated from skimmers.

(b) The number of connections provided must facilitate access to all areas of the pool through hoses less than 50 feet, 15.24 meters, in length.

(6) A rate-of-flow indicator, reading in gallons per minute, must be properly installed and located according to manufacturer recommendations. The indicator must be located in a place and position where it can be easily read.

(7) Pumps must be of adequate capacity to provide the required number of turnovers of pool water as specified in Subsection R392-302-16, Table 1. The pump or pumps must be capable of providing flow adequate for the backwashing of filters. Under normal conditions, the pump or pumps must supply the circulation rate of flow at a dynamic head which includes, in addition to the usual equipment, fitting and friction losses, an additional loss of 15 feet, 4.57 meters, for rapid sand filters, vacuum precoat media filters or vacuum cartridge filters and 40 feet, 12.19 meters, for pressure precoat media filters,

high rate sand filters or cartridge filters, as well as pool inlet orifice loss of 15 feet, 4.57 meters.

(8) A pool equipped with heaters must meet the requirements for boilers and pressure vessels as required by the State of Utah Boiler and Pressure Vessel Rules, R616-2, and must have a fixed thermometer mounted in the pool circulation line downstream from the heater outlet. The heater must be provided with a heatsink as required by manufacturer's instructions.

(9) The area housing the circulation equipment must be designed with adequate working space so that all equipment may be easily disassembled, removed, and replaced for proper maintenance.

(10) All circulation lines to and from the pool must be regulated with valves in order to control the circulation flow.

(a) All valves must be located where they will be readily and easily accessible for maintenance and removal.

(b) Multiport valves must comply with NSF/ANSI 50-2015.

(11) Written operational instructions must be immediately available at the facility at all times.

TABLE 1

Circulation

Pool Type	Min. Number of Wall Inlets	Min. Number of Skimmers per 3,500 square ft. or less	Min. Turnover Time
1. Swim	1 per 10 ft., 3.05 m.	1 per 500 sq. ft., 46.45 sq. m.	8 hrs.
2. Swim, high bather load	1 per 10 ft., 3.05 m.	1 per 500 sq. ft., 46.45 sq. m.	6 hrs.
3. Wading pool	1 per 20 ft., 6.10 m. min. of 2 equally spaced	1 per 500 sq. ft., 46.45 sq. m.	1 hr.
4. Spa	1 per 20 ft., 6.10 m.	1 per 100 sq. ft., 9.29 sq. m.	0.5 hr.
5. Wave	1 per 10 ft., 3.05 m.	1 per 500 sq. ft., 46.45 sq. m.	6 hrs.
6. Slide	1 per 10 ft., 3.05 m.	1 per 500 sq. ft., 46.45 sq. m.	1 hr.
7. Vehicle slide	1 per 10 ft., 3.05 m.	1 per 500 sq. ft., 46.45 sq. m.	1 hr.
8. Special Purpose Pool	1 per 10 ft., 3.05 m.	1 per 500 sq. ft., 46.45 sq. m.	1 hr.

(12) Each air induction system installed must comply with the following requirements:

(a) An air induction system must be designed and maintained to prevent any possibility of water back-up that could cause electrical shock hazards.

(b) An air intake may not introduce contaminants such as noxious chemicals, fumes, deck water, dirt, etc. into the pool.

(13) The circulation lines of jet systems and other forms of water agitation must be independent and separate from the circulation-filtration and heating systems.

R392-302-17. Inlets.

(1) Inlets for fresh or treated water must be located to produce uniform circulation of water and to facilitate the maintenance of a uniform disinfectant residual throughout the entire pool.

(2) If wall inlets from the circulation system are used, they must be flush with the pool wall and submerged at least 5 feet, 1.52 meters, below the normal water level or at the bottom of the vertical wall surface tangent to the arc forming the transition between the vertical wall and the floor of the pool. Except as provided in Subsections R392-302-31[-](2)(l) and (3)(e), wall inlets must be placed every 10 feet, 3.05 meters, around the pool perimeter.

(a) The [d]Department or the local health officer may require floor inlets to be installed in addition to wall inlets if a pool has a width greater than 50 feet, 4.57 meters, to assure thorough chemical distribution. If floor inlets are installed in addition to wall inlets, there must be a minimum of one row of floor inlets centered on the pool width. Individual inlets and rows of inlets shall be spaced a maximum of 15 feet, 4.57 meters, from each other. Floor inlets must be at least 15 feet, 4.57 meters, from a pool wall with wall inlets.

(b) Each wall inlet must be designed as a non-adjustable orifice with sufficient head loss to insure balancing of flow through all inlets. The return loop piping must be sized to provide less than 2.5 feet, 76.20 centimeters, of head loss to the most distant orifice to insure approximately equal flow through all orifices.

(3) If floor inlets from the circulation system are used, they must be flush with the floor. Floor inlets shall be placed at maximum 15 foot, 4.46 meter, intervals. The distance from floor inlets to a pool wall shall not exceed 7.5 feet, 2.29 meters if there are no wall inlets on that wall. Each floor inlet must be designed such that the flow can be adjusted to provide sufficient head loss to insure balancing of flow through all inlets. All floor inlets must be designed such that the flow cannot be adjusted without the use of a special tool to protect against swimmers being able to adjust the flow. The return supply piping must be sized to provide less than 2.5 feet, 76.20 centimeters, of head loss to the most distant orifice to insure approximately equal flow through all orifices.

(4) The [d]Department may grant an exemption to the inlet placement requirements on a case by case basis for inlet designs that can be demonstrated to produce uniform mixing of pool water.

R392-302-18. Outlets.

(1) No feature or circulation pump shall be connected to less than two outlets unless the pump is connected to a gravity drain system or the pump is connected to an unblockable drain. All pool outlets shall meet the following design criteria:

(a) The grates or covers of all submerged outlets in pools shall conform to the standards of ANSI/APSP-16 2011.

(b) The outlets must be constructed so that if one of the outlets is completely obstructed, the remaining outlets and related

piping will be capable of handling 100 percent of the maximum design circulation flow.

(c) All pool outlets that are connected to a pump through a single common suction line must connect to the common suction line through pipes of equal diameter. The tee feeding to the common suction line from the outlets must be located approximately midway between outlets.

(d) An outlet system with more than one outlet connected to a pump suction line must not have any valve or other means to cut any individual outlet out of the system.

(e) At least one of the circulation outlets shall be located at the deepest point of the pool and must be piped to permit the pool to be completely and easily emptied.

(f) The center of the outlet covers or grates of multiple main drain outlets shall not be spaced more than 30 feet, 9.14 meters, apart nor spaced closer than 3 feet, 0.914 meters, apart.

(g) Multiple pumps may utilize the same outlets only if the outlets are sized to accommodate 100 percent of the total combined design flow from all pumps and only if the flow characteristics of the system meet the requirements of subsection R392-302-18(2) and (3).

(h) There must be one main drain outlet for each 30 feet, 9.14 meters, of pool width. The centers of the outlet covers or grates of any outermost main drain outlets must be located within 15 feet, 4.57 meters, of a side wall.

(i) Devices or methods used for draining pools shall prevent overcharging the sanitary sewer.

(j) No operator shall allow the use of a pool with outlet grates or covers that are broken, damaged, missing, or not securely fastened.

(2) Notwithstanding Section R392-302-3, all public pools must comply with Subsections R392-302-18(2) and (3). The pool operator shall not install, allow the installation of, or operate a pool with a drain, drain cover, or drain grate in a position or an application that conflicts with any of the following mandatory markings on the drain cover or grate under the standard required in R392-302-18(1)(a):

(a) whether the drain is for single or multiple drain use;

(b) the maximum flow through the drain cover; and

(c) whether the drain may be installed on a wall or a floor.

(3) The pool operator shall not install, allow the installation of, or operate a pool with a drain cover or drain grate unless it is over or in front of:

(a) the sump that is recommended by the drain cover or grate manufacturer;

(b) a sump specifically designed for that drain by a Registered Design Professional as defined in ANSI/APSP-16 2011; or

(c) a sump that meets the ANSI/APSP-16 2011 standard.

(4) Notwithstanding Section R392-302-3, all public pools must comply with this subsection R392-302-18(4). The pool owner or certified pool operator shall retrofit by December 19, 2009 each pool circulation system on existing pools that do not meet the requirements of subsections R392-302-18(1) through R392-302-18(1)(g) and R392-302-18(2) through (3)(c). The owner or operator shall meet the retrofit requirements of this subsection by any of the following means:

(a) Meet the requirements of R392-302-18(1)(a) and R392-302-18(2) through (3)(c) and install a safety vacuum release system which ceases operation of the pump, reverses the circulation flow, or otherwise provides a vacuum release at a suction outlet when it detects a blockage; that has been tested by an independent third party; and that

conforms to ASME standard A112.19.17-2010 or ASTM standard F2387-04(2012);

(i) To ensure proper operation, the certified pool operator shall inspect and test the vacuum release system at least once a week but no less often than established by the manufacturer. The certified pool operator shall test the vacuum release system in a manner specified by the manufacturer. The certified pool operator shall log all inspections, tests and maintenance and retain the records for a minimum of two years for review by the Department and local health department upon request.

(ii) The vacuum release system shall include a notification system that alerts patrons and the pool operator when the system has inactivated the circulation system. The pool operator shall submit to the local health department for approval the design of the notification systems prior to installation. The system shall activate a continuous clearly audible alarm that can be heard in all areas of the pool or a continuous visible alarm that can be seen in all areas of the pool. A sign that meets the requirements of a "2 Inch Safety Sign" in R392-302-[34]39[-](1),(2) and (3)(b) shall be posted next to the sound or visible alarm source. The sign shall state, "DO NOT USE THE POOL IF THIS ALARM IS ACTIVATED." and provide the phone number of the pool operator.

(iii) No operator shall allow the use of a pool that has a single drain with a safety vacuum release system if the safety vacuum release system is not functioning properly.

(b) Install an outlet system that includes no fewer than two suction outlets separated by no less than 3 feet, 0.914 meters, on the horizontal plane as measured from the centers of the drain covers or grates or located on two different planes and connected to pipes of equal diameter. The outlet system shall meet the requirements of R392-302-18(1)(a) through R392-302-18(1)(g) and 18(2) through (3) (c);

(c) Meet the requirements of R392-302-18(1)(a) and R392-302-18(2) through (3)(c) and installing (or having an existing) gravity drain system;

(d) Install an unblockable drain that meets the requirements of R392-302-18(1)(a) and R392-302-18(2) through (3)(c); or

(e) Any other system determined by the federal Consumer Products Safety Commission to be equally effective as, or better than, the systems described in 15 USC 8003 (c)(1)(A)(ii)(I), (III), or (IV) at preventing or eliminating the risk of injury or death associated with pool drainage systems.

R392-302-19. Overflow Gutters and Skimming Devices.

(1) A pool having a surface area of over 3,500 square feet, 325.15 square meters, must have overflow gutters. A pool having a surface area equal to or less than 3,500 square feet, 325.15 square meters, must have either overflow gutters or skimmers provided.

(2) Overflow gutters must extend completely around the pool, except at steps, ramps, or recessed ladders. The gutter system must be capable of continuously removing pool water at 100 percent of the maximum flow rate. This system must be connected to the circulation system by means of a surge tank.

(3) Overflow gutters must be designed and constructed in compliance with the following requirements:

(a) The opening into the gutter beneath the coping or grating must be at least 3 inches, 7.62 centimeters, in height with a depth of at least 3 inches, 7.62 centimeters.

(b) Gutters must be designed to prevent entrapment of any part of a bather's body.

(c) The edge must be rounded so it can be used as a handhold and must be no thicker than 2.5 inches, 6.35 centimeters, for the top 2 inches, 5.08 centimeters.

(d) Gutter outlet pipes must be at least 2 inches, 5.08 centimeters, in diameter. The outlet grates must have clear openings and be equal to at least one and one-half times the cross sectional area of the outlet pipe.

(4) Skimmers complying with NSF/ANSI 50-2015 standards or equivalent are permitted on any pool with a surface area equal to or less than 3,500 square feet, 325.15 square meters. At least one skimming device must be provided for each 500 square feet, 46.45 square meters, of water surface area or fraction thereof. Where two or more skimmers are required, they must be spaced to provide an effective skimming action over the entire surface of the pool.

(5) Skimming devices must be built into the pool wall and must meet the following general specifications:

(a) The piping and other components of a skimmer system must be designed for a total capacity of at least 80 percent of the maximum flow rate of the circulation system.

(b) Skimmers must be designed with a minimum flow rate of 25 gallons, 94.64 liters, per minute and a maximum flow rate of 55 gallons, 208.12 liters, per minute. The local health department may allow a higher maximum flow through a skimmer up to the skimmer's NSF rating if the piping system is designed to accommodate the higher flow rates. Alternatively, skimmers may also be designed with a minimum of 3.125 gallons, 11.83 liters, to 6.875 gallons, 26.02 liters, per lineal inch, 2.54 centimeters, of weir.

(6) Each skimmer weir must be automatically adjustable and must operate freely with continuous action to variations in water level over a range of at least 4 inches, 10.16 centimeters. The weir must operate at all flow variations. Skimmers shall be installed with the normal operating level of the pool water at the midpoint of the skimmer opening or in accordance with the manufacturer's instructions.

(7) An easily removable and cleanable basket or screen through which all overflow water passes, must be provided to trap large solids.

(8) The skimmer must be provided with a system to prevent air-lock in the suction line. The anti-air-lock may be accomplished through the use of an equalizer pipe or a surge tank or through any other arrangement approved by the Department that will assure a sufficient amount of water for pump suction in the event the pool water drops below the weir level. If an equalizer pipe is used, the following requirements must be met:

(a) An equalizer pipe must be sized to meet the capacity requirements for the filter and pump;

(b) An equalizer pipe may not be less than 2 inches, 5.08 centimeters, in diameter and must be designed to control velocity through the pipe in accordance with section R392-302-16(3);

(c) This pipe must be located at least 1 foot, 30.48 centimeters, below a valve or equivalent device that will remain tightly closed under normal operating conditions. In a shallow pool, such as a wading pool, where an equalizer outlet can not be submerged at least one foot below the skimmer valve, the equalizer pipe shall be connected to a separate dedicated outlet with an anti-entrapment outlet cover in the floor of the pool that meets the requirements of ANSI/APSP-16 2011; and

(d) The equalizer pipe must be protected with a cover or grate that meets the requirements of ANSI/APSP-16 2011 and is sized to accommodate the design flow requirement of R392-302-19(5).

(9) The operator shall maintain proper operation of all skimmer weirs, float valves, check valves, and baskets. Skimmer baskets shall be maintained in a clean and sanitary condition.

(10) Where skimmers are used, a continuous handhold is required around the entire perimeter of the pool except in areas of the pool that are zero depth and shall be installed not more than 9 inches, 2.86 centimeters, above the normal operating level of the pool. The decking, coping, or other material may be used as the handhold so long as it has rounded edges, is slip-resistant, and does not exceed 3.5 inches, 8.89 centimeters, in thickness. The overhang of the coping, decking, or other material must not exceed 2 inches, 5.08 centimeters, nor be less than 1 inch, 2.54 centimeters beyond the pool wall. An overhang may be up to a maximum of 3 inches to accommodate an automatic pool cover track system.

R392-302-20. Filtration.

(1) The filter system must provide for isolation of individual filters for backwashing or other service.

(2) The filtration system must be designed to allow the pool operator to easily observe the discharge backwash water from the filter in order to determine if the filter cells are clean.

(3) A public pool must use either a rapid sand filter, hi-rate sand filter, precoat media filter, a cartridge filter or other filter types deemed equivalent by the Department. All filters must comply with the standard NSF/ANSI 50-2015.

(4) Gravity and pressure rapid sand filter requirements.

(a) Rapid sand filters must be designed for a filter rate of 3 gallons, 11.36 liters, or less, per minute per square foot, 929 square centimeters, of bed area at time of maximum head loss. The filter bed surface area must be sufficient to meet the design rate of flow required by Section R392-302-16, Table 1, for required turnover.

(b) The filter system must be provided with influent pressure, vacuum, or compound gauges to indicate the condition of the filters. Air-relief valves must be provided at or near the high point of the filter or piping system.

(c) The filter system must be designed with necessary valves and piping to permit:

(i) filtering of all pool water;

(ii) individual backwashing of filters to a sanitary sewer at a minimum rate of 15 gallons, 56.78 liters, per minute per square foot, 929 square centimeters, of filter area;

(iii) isolation of individual filters;

(iv) complete drainage of all parts of the system;

(v) necessary maintenance, operation and inspection in a convenient manner.

(d) Each pressure type filter tank must be provided with an access opening of at least a standard size 11 inch, 27.94 centimeters, by 15 inch, 38.10 centimeters, manhole with a cover.

(5) Hi-rate sand filter requirements.

(a) Hi-rate sand filters must be designed for a filter rate of less than 18 gallons, 68.14 liters, per minute per square foot, 929 square centimeters, of bed area. The filter bed area must be sufficient to meet the design rate of flow required by Section R392-302-16, Table 1, for required turnover. Minimum flow rates must be at least 13 gallons, 49.21 liters, per minute per square foot, 929 square centimeters, of bed area. The minimum flow rate requirement may be

reduced to a rate of no less than 10 gallons per minute per square foot of bed area where a multiple filter system is provided, and where the system includes a valve or other means after the filters which is designed to regulate the backwash flow rate and to assure that adequate backwash flow can be achieved through each filter per the filter manufacturer's requirements.

(b) The filter tank and all components must be installed in compliance with the manufacturer's recommendations.

(c) An air-relief valve must be provided at or near the high point of the filter.

(d) The filter system must be provided with an influent pressure gauge to indicate the condition of the filter.

(6) Vacuum or pressure type precoat media filter requirements.

(a) The filtering area must be compatible with the design pump capacity as required by R392-302-16(7). The design rate of filtration may not exceed 2.0 gallons per minute per square foot, 7.57 liters per 929 square centimeters, of effective filtering surface without continuous body feed, nor greater than 2.5 gallons per minute per square foot, 9.46 liters per 929 square centimeters, with continuous body feed.

(b) Where body feed is provided, the feeder device must be accurate to within 10 percent, must be capable of continual feeding within a calibrated range, and must be adjustable from two to six parts per million. The device must feed at the design capacity of the circulation pump.

(c) Where fabric is used, filtering area must be determined on the basis of effective filtering surfaces.

(d) The filter and all component parts must be designed and constructed of materials which will withstand normal continuous use without significant deformation, deterioration, corrosion or wear which could adversely affect filter operations.

(e) If a precoat media filter is supplied with a potable water supply, then the water must be delivered through an air gap.

(f) The filter plant must be provided with influent pressure, vacuum, or compound gauges to indicate the condition of the filter. In vacuum-type filter installations where the circulating pump is rated at two horsepower or higher, an adjustable high vacuum automatic shut-off device must be provided to prevent damage to the pump. Air-relief valves must be provided at or near the high point of the filter system.

(g) A filter must be designed to facilitate cleaning by one or more of the following methods: backwashing, air-bump-assist backwashing, automatic or manual water spray, or agitation.

(h) The filter system must provide for complete and rapid draining of the filter.

(i) Diatomaceous earth filter backwash water must discharge to the sanitary sewer system through a separation tank. The separation tank must have a sign that meets the requirements of a "2 Inch Safety Sign" in R392-302-~~34~~39-(1), (2) and (3)(b) warning the user not to start up the filter pump without first opening the air relief valve.

(j) Personal protection equipment suitable for preventing inhalation of diatomaceous earth or other filter aids must be provided.

(7) The ~~[d]~~Department may waive NSF/ANSI 50-2015 standards for precoat media filters and approve site-built or custom-built vacuum precoat media filters, if the precoat media filter elements are easily accessible for cleaning by hand hosing after each filtering cycle. Site-built or custom-built vacuum precoat media filters must comply with all design requirements as specified in Subsection R392-

302-20(6). Any design which provides the equivalent washing effectiveness as determined by the [d]Department may be acceptable. Where the [d]Department or the local health department determines that a potential cross-connection exists, a hose bib in the vicinity of the filter to facilitate the washing operation must be equipped with a vacuum breaker listed by the International Association of Plumbing and Mechanical Officials, IAPMO, the American Society of Sanitary Engineering, A.S.S.E., or other nationally recognized standard.

(8) Vacuum or pressure type cartridge filter requirements.

(a) Sufficient filter area must be provided to meet the design pump capacity as required by Subsection R392-302-16, Table 1.

(b) The designed rate of filtration may not exceed 0.375 gallons, 1.42 liters, per minute per square foot, 929 square centimeters, of effective filter area.

(c) The filter and all component parts must be designed and constructed of materials which will withstand normal continuous use without significant deformation, deterioration, corrosion or wear which could adversely affect filter operations. The filter element must be constructed of polyester fiber only.

(d) The filter must be fitted with influent and effluent pressure gauges, vacuum, or compound gauges to indicate the condition of the filter. In vacuum type filter installations where the circulating pump is rated at two horsepower or higher, an adjustable high vacuum automatic shut-off must be provided to prevent damage to the pump. Air-relief valves must be provided at or near the high point of the filter system.

(e) Cleaning of cartridge type filters must be accomplished in accordance with the manufacturer's recommendations.

R392-302-21. Disinfectant and Chemical Feeders.

(1) A pool must be equipped with disinfectant dosing or generating equipment which conform to the NSF/ANSI 50-2015, standards relating to mechanical chemical feeding equipment, or be deemed equivalent by the [d]Department.

(2) All chlorine dosing and generating equipment, including erosion feeders, or in-line electrolytic and brine/bath generators, shall be designed with a capacity to provide the following, depending on the intended use:

(a) Outdoor pools: 4.0 pounds of free available chlorine per day per 10,000 gallons of pool water; or

(b) Indoor pools: 2.5 pounds of free available chlorine per day per 10,000 gallons of pool water.

([2]3) Where oxidation-reduction potential controllers are used, the operator shall perform supervisory water testing, calibration checks, inspection and cleaning of sensor probes and chemical injectors in accordance with the manufacturer's recommendations. If specific manufacturer's recommendations are not made, the operator shall perform inspections, calibration checks, and cleaning of sensor probes at least weekly.

([3]4) Where compressed chlorine gas is used, the following additional features must be provided:

(a) Chlorine and chlorinating equipment must be located in a secure, well-ventilated enclosure separate from other equipment systems or equipment rooms. Such enclosures may not be below ground level. If an enclosure is a room within a building, it must be provided with vents near the floor which terminate at a location out-of-doors. Enclosures must be located to prevent contamination of air inlets to any buildings and areas used by people. Forced air ventilation

capable of providing at least one complete air change per minute, must be provided for enclosures.

(b) The operator shall not keep substances which are incompatible with chlorine in the chlorine enclosure.

(c) The operator shall secure chlorine cylinders to prevent them from falling over. The operator shall maintain an approved valve stem wrench on the chlorine cylinder so the supply can be shut off quickly in case of emergency. The operator shall keep valve protection hoods and cap nuts in place except when the cylinder is connected.

(d) A sign that meets the requirements of a "4 Inch Safety Sign" in R392-302-[34]39[-](1), (2) and (3)(a) shall be attached to the entrance door to chlorine gas and equipment rooms that reads, "DANGER CHLORINE GAS" and display the United States Department of Transportation placard and I.D. number for chlorine gas.

(e) The chlorinator must be designed so that leaking chlorine gas will be vented to the out-of-doors.

(f) The chlorinator must be a solution feed type, capable of delivering chlorine at its maximum rate without releasing chlorine gas to the atmosphere. Injector water must be furnished from the pool circulation system with necessary water pressure increases supplied by a booster pump. The booster must be interlocked with both the pool circulation pump and with a flow switch on the return line.

(g) Chlorine feed lines may not carry pressurized chlorine gas.

(h) The operator shall keep an unbreakable bottle of ammonium hydroxide, of approximately 28 percent solution in water, readily available for chlorine leak detection.

(i) A self-contained breathing apparatus approved by NIOSH for entering environments that are immediately dangerous to life or health must be available and must have a minimum capacity of fifteen minutes.

(j) The breathing apparatus must be kept in a closed cabinet located outside of the room in which the chlorinator is maintained, and must be accessible without use of a key or lock combination.

(k) The facility operator shall demonstrate to the local health department through training documentation, that all persons who operate, or handle gas chlorine equipment, including the equipment specified in Subsections R392-203-21(3)(h) and (i) are knowledgeable about safety and proper equipment handling practices to protect themselves, staff members, and the public from accidental exposure to chlorine gas.

(l) The facility operator or his designee shall immediately notify the local health department of any inadvertent escape of chlorine gas.

([4]5) Bactericidal agents, other than chlorine and bromine, and their feeding apparatus may be acceptable if approved by the [d]Department. Each bactericidal agent must be registered by the U.S. Environmental Protection Agency for use in swimming pools.

([5]6) Equipment of the positive displacement type and piping used to apply chemicals to the water must be sized, designed, and constructed of materials which can be cleaned and maintained free from clogging at all times. Materials used for such equipment and piping must be resistant to the effects of the chemicals in use.

([6]7) All auxiliary chemical feed pumps must be wired electrically to the main circulation pump so that the operation of these pumps is dependent upon the operation of the main circulation pump. If a chemical feed pump has an independent timer, the main circulation pump and chemical feed pump timer must be interlocked.

R392-302-22. Safety Requirements and Lifesaving Equipment.

(1) Areas of a public pool with water depth greater than six feet or a width greater than forty feet and a depth greater than four feet where a lifeguard is required under Subsection R392-302-30(2) shall provide for a minimum number of elevated lifeguard stations in accordance with Table 2. Elevated lifeguard stations shall be located to provide a clear unobstructed view of the pool bottom by lifeguards on duty.

(2) A public pool must have at least one unit of lifesaving equipment. One unit of lifesaving equipment must consist of the following: a Coast Guard-approved ring buoy with an attached rope equal in length to the maximum width of the pool plus 10 feet and a life pole or shepherd's crook type pole with blunted ends and a minimum length of 12 feet, 3.66 meters. The facility operator may substitute a rescue tube for a ring buoy where lifeguard service is provided. Additional units must be provided at the rate of one for each 2,000 square feet, 185.8 square meters, of surface area or fraction thereof. The operator of a pool that has lifeguard services shall provide at least one backboard designed with straps and head stabilization capability.

(3) A public pool must be equipped with a first aid kit which includes a minimum of the following items:

- 2 Units eye dressing packet;
- 2 Units triangular bandages;
- 1 CPR shield;
- 1 scissors;
- 1 tweezers;
- 6 pairs disposable medical exam gloves; and

Assorted types and sizes of the following: self adhesive bandages, compresses, roller type bandages and bandage tape.

(a) The operator shall keep the first-aid kit filled, available, and ready for use.

(4) Lifesaving equipment must be mounted in readily accessible, conspicuous places around the pool deck. The operator shall maintain it in good repair and operable condition. The operator and lifeguards shall prevent the removal of lifesaving equipment or use of it for any reason other than its intended purpose.

(5) Where no lifeguard service is provided in accordance with Subsection R392-302-30(2), a warning sign that meets the requirements of a "4 Inch Safety Sign" in R392-302-[34]39[-](1), (2) and (3)(a) shall be posted. The sign shall state: WARNING - NO LIFEGUARD ON DUTY. In addition, the sign shall state in text that meets the requirements of "2 Inch Safety Sign" in R392-302-[34]39[-](1), (2) and (3)(b) "BATHERS SHOULD NOT SWIM ALONE", and CHILDREN 14 AND UNDER SHALL NOT USE POOL WITHOUT RESPONSIBLE ADULT SUPERVISION.

(6) Where lifeguard service is required, the facility must have a readily accessible area designated and equipped for emergency first aid care.

TABLE 2

Safety Equipment and Signs

	POOLS WITH LIFEGUARD	POOLS WITH NO LIFEGUARD
Elevated Station	1 per 2,000 sq. ft., 185 sq. meters, of pool area or fraction	None

Backboard	1 per facility	None
Room for Emergency Care	1 per facility	None
Ring Buoy with an attached rope equal in length to the maximum width of the pool plus 10 feet, 3.05 meters	1 per 2,000 sq. ft., 185 sq. meters, of pool area or fraction	1 per 2,000 sq. ft., 185 sq. meters, of pool area or fraction
Rescue Tube (used as a substitute for ring buoys when lifeguards are present)	1 per 2,000	None sq. ft., 185 sq. meters, of pool area or fraction
Life Pole or Shepherds Crook	1 per 2,000 sq. ft., 185, sq. meters, of pool area or fraction	1 per 2,000 sq. ft., 185, sq. meters, of pool area or fraction
First Aid Kit	1 per facility	1 per facility

R392-302-23. Lighting, Ventilation and Electrical Requirements.

(1) A pool constructed after September 16, 1996 may not be used for night swimming in the absence of underwater lighting. The local health officer may grant an exemption to this if the pool operator demonstrates that a 6 inch, 15.24 centimeters, diameter black disk on a white background placed in the deepest part of the pool can be clearly observed from the pool deck during night time hours. The local health department shall keep a record of this exemption on file. The pool operator shall keep a record of this exemption on file at the facility.

(2) Where night swimming is permitted and underwater lighting is used, artificial lighting shall be provided so that all areas of the pool, including the deepest portion of the pool shall be visible. Underwater lights shall provide illumination equivalent to 0.5 watt of incandescent lamp light per square foot, 0.093 square meter, of pool water surface area. The Local Health Officer may waive underwater lighting requirements if overhead lighting provides a minimum of 15 foot candles, 161 lux, illumination over the entire pool surface.

(3) Where night swimming is permitted and underwater luminaires are used, area lighting must be provided for the deck areas and directed away from the pool surface as practical to reduce glare. The luminance must be at least 5 horizontal foot candles of light per square foot, 929 square centimeters, of deck area, but less than the luminance level for the pool shell.

(4) Electrical wiring must conform with Article 680 of the National Electrical Code as incorporated under Title 15a, State Construction and Fire Codes Act.

(a) Wiring may not be routed under a pool or within the area extending 5 feet, 1.52 meters, horizontally from the inside wall of the pool as provided in Article 680 of the National Electric Code as incorporated under Title 15a, State Construction and Fire Codes Act, without the written approval of the [d]Department. The [d]Department may deny the installation and use of any electrical appliance, device, or fixture, if its power service is routed under a pool or within the area extending 5 feet, 1.52 meters, horizontally from the inside wall of the pool, except in the following circumstances;

- (i) For underwater lighting,
- (ii) electrically powered automatic pool shell covers, and
- (iii) competitive judging, timing, and recording apparatus.

(5) Buildings containing indoor pools, pool equipment rooms, access spaces, bathhouses, dressing rooms, shower rooms, and toilet spaces must be ventilated in accordance with American Society of Heating, Refrigerating and Air-Conditioning Engineers Standard 62.1-2004, which is incorporated and adopted by reference.

R392-302-24. Dressing Rooms.

- (1) The operator shall maintain all areas and fixtures within dressing rooms in an operable, clean and sanitary condition.
- (2) Where dressing rooms are provided, a separate dressing room must be provided for each gender. The entrances and exits must be designed to break the line of sight into the dressing areas from other locations.
- (3) Dressing rooms must be constructed of materials that have smooth, non-slip surfaces, and are impervious to moisture.
- (4) Floors must slope to a drain and be constructed to prevent accumulation of water.
- (5) Carpeting may not be installed on dressing room floors.
- (6) Junctions between walls and floors must be covered.
- (7) Partitions between dressing cubicles must be raised at least 10 inches, 25.4 centimeters, above the floor or must be placed on continuous raised masonry or concrete bases at least 4 inches, 10.16 centimeters, high.
- (8) Lockers must be set either on solid masonry bases 4 inches, 10.16 centimeters, high or on legs elevating the bottom locker at least 10 inches, 25.4 centimeters, above the floor.
 - (a) Lockers must have louvers for ventilation.
- (9) At least one covered waste receptacle must be provided in each dressing room.

R392-302-25. Restroom and Shower Facilities.

- (1) The facility shall provide a restroom with shower facility for each gender.
 - (a) The entrances and exits must be designed to break the line of sight into the restroom and shower facilities.
- (2) The minimum number of toilets and showers must be based upon the designed maximum bather load.
 - (a) Required numbers of fixtures must be based upon 50 percent of the total number of bathers being male and 50 percent being female, except where the facility is used exclusively by one gender.
 - (b) The minimum number of sanitary fixtures must be in accordance with Table 4.
 - (i) The local health department may exempt any bathers who have private use fixtures available within 150 feet, 45.7 meters, of the pool from the total number of bathers used to calculate the number of fixtures required.

TABLE 4
Sanitary Fixture Minimum Requirements
Water Closets

Male	Female
1:1 to 25	1:1 to 25
2:26 to 75	2:26 to 75
3:76 to 125	3:76 to 125
4:126 to 200	4:126 to 200
5:201 to 300	5:201 to 300
6:301 to 400	6:301 to 400

Over 400, add one fixture for each additional 200 males or 150 females.

Where urinals are provided, one water closet less than the number specified may be provided for each urinal installed, except the number of water closets in such cases may not be reduced to less than one half of the minimum specified.

- (3) Lavatories must be provided on the basis of one for each water closet up to four, then one for each two additional water closets.
- (4) The facility shall provide showers for each gender and shall enclose these showers for privacy. A minimum of one shower head for each gender must be provided for each 50 bathers or fraction thereof.
 - (a) Potable water must be provided at all shower heads. Water heaters and thermostatically controlled mixing valves must be inaccessible to bathers and must be capable of providing 2 gallons per minute, 7.57 liters per minute, of 90 degree F. water to each shower head for each bather.
 - (5) If unisex facilities are provided they may count toward the total number of required fixtures in this section as long as the unisex facilities are provided in multiples of two.
 - (6) Soap must be dispensed at all lavatories and showers.
 - (a) Soap dispensers must be constructed of metal or plastic.
 - (b) Use of bar soap or any communal soap item is prohibited.
 - (c) Disposable towels or air dryers must be provided for all lavatories.
 - (7) Fixtures must be designed so that they may be readily cleaned. Fixtures must withstand frequent cleaning and disinfecting.
 - (8) The operator shall maintain all areas and fixtures within restroom facilities in an operable, clean and sanitary condition.
 - (9) Restroom and shower facilities must be constructed of materials that have smooth, non-slip surfaces, and are impervious to moisture.
 - (10) Floor must slope to a drain and be constructed to prevent accumulation of water.
 - (11) Carpeting may not be installed on restroom and shower floors.
 - (12) Junctions between walls and floors must be covered.
 - (13) At least one covered waste receptacle must be provided in each restroom.

R392-302-26. Visitor and Spectator Areas.

- (1) Visitors, spectators, or animals may not be allowed within 10 feet, 3.05 meters, of the pool. Service animals are exempt from this requirement.
- (2) Food or drink is prohibited within ten feet, 3.05 meters, of the pool. Beverages must be served in non-breakable containers.
- (3) Trash containers must be provided in visitor and spectator areas. The entire area must be kept free of litter and maintained in a clean, sanitary condition.

R392-302-27. Disinfection and Quality of Water.

- (1) Disinfection Process.
 - (a) A pool must be continuously disinfected by a product which:
 - (i) Is registered with the United States Environmental Protection Agency as a disinfecting process or disinfectant product for water;

(ii) Imparts a disinfectant residual which may be easily and accurately measured by a field test procedure appropriate to the disinfectant in use;

(iii) Is compatible for use with other chemicals normally used in pool water treatment;

(iv) Does not create harmful or deleterious effects on bathers if used according to manufacturer's specifications; and

(v) Does not create an undue safety hazard if handled, stored and used according to manufacturer's specifications.

(b) The concentration levels of the active disinfectant within the pool water shall be consistent with the label instructions of the disinfectant and with the minimum levels listed in Table 6 for all circumstances, bather loads, and the pH level of the water.

(i) At no time shall the concentration level of free available chlorine reach a level above ten parts per million while the facility is open to bathers.

(2) Products used to treat or condition pool water shall be used according to the product label.

(3) Testing Kits.

(a) An easy to operate pool-side disinfectant testing kit, compatible with the disinfectant in use and accurate to within 0.5 milligrams per liter, must be provided at each pool.

(b) If chlorine is the disinfectant used, it must be tested by the diethyl-p-phenylene diamine method, the leuco crystal violet method, or another test method approved by the Department.

(c) If cyanuric acid or stabilized chlorine is used, a testing kit for cyanuric acid, accurate to within 10.0 milligrams per liter must be provided.

(d) Expired test kit reagents may not be used.

(4) Chemical Quality of Water.

(a) If cyanuric acid is used to stabilize the free residual chlorine, or if one of the chlorinated isocyanurate compounds is used as the disinfecting chemical, the concentration of cyanuric acid in the water must be at least ten milligrams per liter, but may not exceed 100 milligrams per liter.

(b) The difference between the total chlorine and the free chlorine in a pool shall not be greater than 0.5 milligrams per liter. If the concentration of combined residual chlorine is greater than 0.5 milligrams per liter the operator shall breakpoint chlorinate the pool water to reduce the concentration of combined chlorine.

(c) Total dissolved solids shall not exceed 1,500 milligrams per liter over the startup total dissolved solids of the pool water.

(d) Total alkalinity must be within the range from 100 to 125 milligrams per liter for a plaster lined pool, 80 to 150 milligrams per liter for a spa pool lined with plaster, and 125 to 150 milligrams per liter for a pool lined with other approved construction materials.

(e) A calcium hardness of at least 200 milligrams per liter must be maintained.

(f) The saturation index value of the pool water must be within the range of positive 0.3 and minus 0.3. The saturation index shall be calculated in accordance with Table 5.

(5) Water Clarity and Temperature.

(a) The water must have sufficient clarity at all times that the drain grates or covers in the deepest part of the pool are readily visible. As an alternative test for clarity, a black disk, six inches in diameter, must be readily visible if placed on a white field in the deepest part of the pool.

(b) Pool water temperatures for general use should be within the range of 82 degrees Fahrenheit, 28 degrees Celsius, to 86 degrees Fahrenheit, 30 degrees Celsius.

(c) The minimum water temperature for a pool is 78 degrees Fahrenheit, 26 degrees Celsius.

(d) The local health department may grant exemption to the pool water temperature requirements for a special purpose pool including a cold plunge pool, but may not exempt maximum hot water temperatures for a spa pool.

TABLE 5

CHEMICAL VALUES AND FORMULA FOR CALCULATING SATURATION INDEX

The formula for calculating the saturation index is:
 $SI = pH + TF + CF + AF - TDSF$
 SI means saturation index
 TF means temperature factor
 CF means calcium factor
 mg/l means milligrams per liter
 deg F means degrees Fahrenheit
 AF means alkalinity factor
 TDSF means total dissolved solids factor.

Temperature		Calcium Hardness		Total Alkalinity	
deg. F	TF	mg/l	CF	mg/l	AF
32	0.0	25	1.0	25	1.4
37	0.1	50	1.3	50	1.7
46	0.2	75	1.5	75	1.9
53	0.3	100	1.6	100	2.0
60	0.4	125	1.7	125	2.1
66	0.5	150	1.8	150	2.2
76	0.6	200	1.9	200	2.3
84	0.7	250	2.0	250	2.4
94	0.8	300	2.1	300	2.5
105	0.9	400	2.2	400	2.6
128	1.0	800	2.5	800	2.9

Total Dissolved Solids

mg/l	TDSF
0 to 999	12.1
1000 to 1999	12.2
2000 to 2999	12.3
3000 to 3999	12.4
4000 to 4999	12.5
5000 to 5999	12.55
6000 to 6999	12.6
7000 to 7999	12.65
each additional 1000, add	.05

If the SATURATION INDEX is 0, the water is chemically in balance.

If the INDEX is a minus value, corrosive tendencies are indicated.

If the INDEX is a positive value, scale-forming tendencies are indicated.

EXAMPLE: Assume the following factors:
 pH 7.5; temperature 80 degrees F, 19 degrees C;
 calcium hardness 235; total alkalinity 100; and total dissolved solids 99.

pH = 7.5
 TF = 0.7
 CF = 1.9
 AF = 2.0
 TDSF = 12.1
 TOTAL: $7.5 + 0.7 + 1.9 + 2.0 - 12.1 = 0.0$
 This water is balanced.

TABLE 6
DISINFECTANT LEVELS AND CHEMICAL PARAMETERS

	POOLS	SPAS	SPECIAL PURPOSE
Stabilized Chlorine ⁽²⁾ (milligrams per liter)			
pH 7.2 to 7.6	2.0(1)	3.0(1)	2.0(1)
pH 7.7 to 8.0	3.0(1)	5.0(1)	3.0(1)
Non-Stabilized Chlorine ⁽²⁾ (milligrams per liter)			
pH 7.2 to 7.6	1.0(1)	2.0(1)	2.0(1)
pH 7.7 to 8.0	2.0(1)	3.0(1)	3.0(1)
Bromine (milligrams per liter)	4.0(1)	4.0(1)	4.0(1)
Iodine (milligrams per liter)	1.0(1)	1.0(1)	1.0(1)
Ultraviolet and Hydrogen Peroxide (milligrams per liter hydrogen peroxide)	40.0(1)	40.0(1)	40.0(1)
pH	7.2 to 7.8	7.2 to 7.8	7.2 to 7.8
Total Dissolved Solids (TDS) over start-up TDS (milligrams per liter)	1,500	1,500	1,500
Cyanuric Acid (milligrams per liter)	10 to 100	10 to 100	10 to 100
Maximum Temperature (degrees Fahrenheit)	104	104	104
Calcium Hardness (milligrams per liter as calcium carbonate)	200(1)	200(1)	200(1)
Total Alkalinity (milligrams per liter as calcium carbonate)			
Plaster Pools	100 to 125	80 to 150	100 to 125
Painted or Fiberglass Pools	125 to 150	80 to 150	125 to 150
Saturation Index (see Table 5)	Plus or Minus 0.3	Plus or Minus 0.3	Plus or Minus 0.3
Chloramines (combined chlorine residual, milligrams per liter)	0.5	0.5	0.5

Note (1): Minimum Value
 Note (2): Maximum value of free chlorine is ten milligrams per liter as stated in Subsection 27(1)(b)(i).

(6) Pool Water Sampling and Testing.

(a) At the direction of the Local Health Officer, the pool operator or a representative of the local health department shall collect a pool water sample from each public pool at least once per month or at a more frequent interval as determined by the Local health Officer. A seasonal public pool during the off season and any public pool while it is temporarily closed, if the pool is closed for an interval exceeding half of that particular month, are exempt from the requirement for monthly sampling. The operator or local health department representative shall submit the pool water sample to a laboratory approved under R444-14 to perform total coliform and heterotrophic plate count testing.

(b) The operator or local health department shall have the laboratory analyze the sample for total coliform and heterotrophic plate count using methods allowed under R444-14-4.

(c) If the operator submits the sample as required by local health department, the operator shall require the laboratory to report

sample results within five working days to the local health department and operator.

(d) A pool water sample fails bacteriological quality standards if it:

(i) Contains more than 200 bacteria per milliliter, as determined by the heterotrophic plate count or

(ii) Shows a positive test for presence of coliform or contains more than 1.0 coliform organisms per 100 milliliters.

(e) Not more than 1 of 5 samples may fail bacteriological quality standards. Failure of any bacteriological water quality sample shall require submission of a second sample within one lab receiving day after the sample report has been received.

R392-302-28. Cleaning Pools.

(1) The operator shall clean the bottom of the pool as often as needed to keep the pool free of visible dirt.

(2) The operator shall clean the surface of the pool as often as needed to keep the pool free of visible scum or floating matter.

(3) The operator shall keep all pool shell surfaces, handrails, floors, walls, and ceilings of rooms enclosing pools, dressing rooms and equipment rooms clean, sanitary, and in good repair.

(4) The operator shall respond to all discovered releases of fecal matter into a public pool in accordance with the following protocol: Centers for Disease Control and Prevention. Fecal Accident Response Recommendations for Pool Staff and Notice to Readers-- Revised Guidance for Responding to Fecal Accidents in Disinfected Swimming Venues. Morbidity Mortality Weekly Report February 15, 2008 Volume 57, pages 151-152 and May 25, 2001 Volume 50, pages 416-417, which are incorporated by reference. The operator shall include in the records required in R392-302-29[-](2) information about all fecal matter releases into a public pool. The records shall include date, time, and where the fecal matter was discovered; whether the fecal matter was loose or solid; and the responses taken. The Local Health Officer may approve the alteration of the required Centers for Disease Control protocol for the hyperchlorination step for a loose fecal release if an operator is able to achieve a 99.9 percent kill or removal of cryptosporidium oocysts in the entire pool system by another method such as ultraviolet light, ozone, or enhanced filtration prior to allowing bathers to reenter the pool.

R392-302-29. Supervision of Pools.

(1) Public pools must be supervised by an operator that is certified or recertified by a program of training and testing that is approved by the Utah Department of Health. The local health department may determine the appropriate numbers of pools any one certified operator may supervise using criteria based on pool compliance history, local considerations of time and distance, and the individual operator's abilities.

(2) The pool operator must keep written records of all information pertinent to the operation, maintenance and sanitation of each pool facility. Records must be available at the facility and be readily accessible. The pool operator must make records available to the [d]Department or the local health department having jurisdiction upon their request. These records must include disinfectant residual in the pool water, pH and temperature of the pool water, pool circulation rate, quantities of chemicals and filter aid used, filter head loss, filter washing schedule, cleaning and disinfecting schedule for pool decks and dressing rooms, occurrences of fecal release into the pool water or onto the pool deck, bather load, and other information required by the

local health department. The pool operator must keep the records at the facility, for at least two operating seasons.

(3) The public pool owner, in consultation with the qualified operator designated in accordance with R392-302-29[-](1), shall develop an operation, maintenance and sanitation plan for the pool that will assure that the pool water meets the sanitation and quality standards set forth in this rule. The plan shall be in writing and available for inspection by the local health department. At a minimum the plan shall include the frequency of measurements of pool disinfectant residuals, pH and pool water temperature that will be taken. The plan shall also specify who is responsible to take and record the measurements.

(4) If the public pool water samples required in Section R392-302-27[-](5) fail bacteriological quality standards as defined in Section R392-302-27[-](5), the local health department shall require the public pool owner and qualified operator to develop an acceptable plan to correct the problem. The local health department may require more frequent water samples, additional training for the qualified operator and also may require that:

(a) the pool operator measure and record the level of disinfectant residuals, pH, and pool water temperature four times a day (if oxidation reduction potential technology is used in accordance with this rule, the local health department may reduce the water testing frequency requirement) or

(b) the pool operator read flow rate gauges and record the pool circulation rate four times a day.

(5) Bather load must be limited if necessary to insure the safety of bathers and pool water quality as required in Section R392-302-27.

(6) A sign that meets the requirements of a "2 Inch Safety Sign" in R392-302-[34]39[-](1), (2) and (3)(b) must be posted in the immediate vicinity of the pool stating the location of the nearest telephone and emergency telephone numbers which shall include 911 or other local emergency numbers.

R392-302-30. Supervision of Bathers.

(1) Access to the pool must be prohibited when the facility is not open for use.

(2) Lifeguard service must be provided at a public pool if direct fees are charged or public funds support the operation of the pool. If a public pool is normally exempt from the requirement to provide lifeguard services, but is used for some purpose that would require lifeguard services, then lifeguard services are required during the period of that use. For other pools, lifeguard service must be provided, or signs must be clearly posted indicating that lifeguard service is not provided.

(3) The Department shall approve programs which provide training and certifications to lifeguards. These programs shall meet the standards set in Subsection R392-302-30(4)(a).

(4) A lifeguard must:

(a) Obtain training and certification in:

(i) lifeguarding by the American Red Cross or an equivalent program; and

(ii) professional level skills in CPR, AED use, and other resuscitation skills consistent with the 2010 American Heart Association Guidelines for Cardiopulmonary Resuscitation and Emergency Cardiovascular Care; and

(iii) first aid consistent with the 2010 American Heart Association Guidelines for First Aid.

(b) Be on duty at all times when the pool is open to use by bathers, except as provided in Subsection R392-302-30(2); and

(c) Have full authority to enforce all rules of safety and sanitation.

(5) A lifeguard shall not have any other duties to perform other than the supervision and safety of bathers while he or she is assigned lifeguarding duties.

(6) Where lifeguard service is required, the number of lifeguards must be sufficient to allow for continuous supervision of all bathers, and surveillance over total pool floor areas.

(7) Lifeguards must be relieved in the rotation of lifeguarding responsibilities at least every 30 minutes with a work break of at least 10 minutes every hour.

(8) The facility operator and staff are responsible for the enforcement of the following personal hygiene and behavior rules:

(a) A bather using the facility must take a cleansing shower before entering the pool enclosure. A bather leaving the pool to use the toilet must take a second cleansing shower before returning to the pool enclosure.

(b) The operator and lifeguards shall exclude any person having a communicable disease transmissible by water from using the pool. A person having any exposed sub-epidermal tissue, including open blisters, cuts, or other lesions may not use a public pool. A person who has or has had diarrhea within the last two weeks caused by an unknown source or from any communicable or fecal-borne disease may not enter any public pool.

(c) Any child under three years old, any child not toilet trained, and anyone who lacks control of defecation shall wear a water resistant swim diaper and waterproof swimwear. Swim diapers and waterproof swimwear shall have waist and leg openings fitted such that they are in contact with the waist or leg around the entire circumference.

(d) Running, boisterous play, or rough play, except supervised water sports, are prohibited.

(e) Where no lifeguard service is provided, children 14 and under shall not use a pool without responsible adult supervision. Children under the age of five shall not use a spa or hot tub.

(f) The lifeguards and operator shall ensure that diapers shall be changed only in restrooms not at poolside. The person or persons who change the diaper must wash their hands thoroughly with soap before returning to the pool. The diapered person using a swim diaper and waterproof swimwear discussed in subsection R392-302-30(7)(c) above must undergo a cleansing shower before returning to the pool.

(f) Placards that meet the requirements of "Rule Sign" in R392-302-[34]39[-](1), (2) and (3)(c) and embody the above rules of personal hygiene and behavior must be conspicuously posted in the pool enclosure and in the dressing rooms and lifeguard rooms (where applicable).

R392-302-31. Special Purpose Pools: Spa Pools.

(1) [~~Special purpose pools~~Spa pools must meet all applicable requirements of all Sections of R392-302 in addition to those of this Section as they apply to special design features and uses of [~~special purpose~~spa pools.

(a) [~~Special purpose pool~~Spa pool projects require consultation with the local health department having jurisdiction[~~-in order that consideration can be given to areas where potential problems~~

~~may exist and before deviations from some of the requirements are approved.~~

~~(b) The local health officer shall require such measures as deemed necessary to assure the health and safety of special purpose pool patrons].~~

~~(2) Spa Pools:~~

~~[(a)2] This subsection supercedes R392-302-6(5). A spa pool shall may be a color other than white or light pastel.~~

~~(b)3] Spa pools shall meet the bather load requirement of R392-302-7(1)(a).~~

~~(e)4] A spa pool may not exceed a maximum water depth of 4 feet, 1.22 meters. The [d]Department may grant exceptions to the maximum depth requirement for a spa pool designed for special purposes, such as instruction, treatment, or therapy.~~

~~(d)5] This subsection supercedes R392-302-12(1)(f). A spa pool may be equipped with a single entry/exit. A spa pool must be equipped with at least one handrail for each 50 feet, 15.24 meters, of perimeter, or portion thereof, to designate the point of entry and exit. Points of entry and exit must be evenly spaced around the perimeter of the spa pool and afford unobstructed entry and egress.~~

~~(e)6] This subsection supercedes R392-302-12(3)(c). In a spa pool where the bottom step serves as a bench or seat, the bottom riser may be a maximum of 14 inches, 35.56 centimeters.~~

~~(f)7] This subsection supercedes R392-302-13(1). A spa pool must have a continuous, unobstructed deck at least 3 feet, 91.44 centimeters, wide around 25 percent or more of the spa.~~

~~(g)8] This subsection supercedes R392-302-13(5). The [d]Department may allow spa decks or steps made of sealed, clear-heart redwood.~~

~~(h)9] A pool deck may be included as part of the spa deck if the pools are separated by a minimum of 5 feet, 1.52 meters. An exception is allowed to the deck and pool separation requirements if a spa pool and another pool are constructed adjacent to each other and share a common pool sidewall which separates the two pools. The top surface of the common pool side wall may not exceed 18 inches, 45.7 centimeters, in width and shall have markings indicating "No Walking" or an icon that represents the same, provided in block letters at least four inches, 10.16 centimeters, in height, as required by R392-302-[34]39[-](3)(a), in a contrasting color on the horizontal surface of the common wall. Additionally the deck space around the remainder of the spa shall be a minimum of five feet, 1.52 meters.~~

~~(i)10] This subsection supersedes R392-302-15. The local health officer may exempt a spa pool from depth marking requirements if the spa pool owner can successfully demonstrate to the local health officer that bather safety is not compromised by the elimination of the markings.~~

~~(j)11] A spa pool must have a minimum of one turnover every 30 minutes.~~

~~(k)12] Spa pool air induction systems shall meet the requirements of R392-302-16(12)(a) through (b). Jet or water agitation systems shall meet the requirements of R392-302-16(13).~~

~~(h)13] Spa pool filtration system inlets shall be wall-type inlets and the number of inlets shall be based on a minimum of one for each 20 feet, 6.10 meters, or fraction thereof, of pool perimeter.~~

~~(m)14] Spa pool outlets shall meet all of the requirements of subsections R392-302-18(1) through R392-302-18(4)(e); however, the following exceptions apply:~~

~~(i)1a] Multiple spa outlets shall be spaced at least three feet apart from each other as measured from the centers of the drain covers or grates or a third drain shall be provided and the separation distance between individual outlets shall be at the maximum possible spacing.~~

~~(i)1b] The [d]Department may exempt an acrylic or fiberglass spa from the requirement to locate outlets at the deepest point in the pool if the outlets are located on side walls within three inches of the pool floor and a wet-vacuum is available on site to remove any water left in the pool after draining.~~

~~(n)15] A spa pool must have a minimum number of surface skimmers based on one skimmer for each 100 square feet, 9.29 square meters of surface area.~~

~~(o)16] A spa pool must be equipped with an oxidation reduction potential controller which monitors chemical demands, including pH and disinfectant demands, and regulates the amount of chemicals fed into the pool circulation system. A spa pool constructed and approved prior to September 16, 1996 is exempt from this requirement if it is able to meet bacteriological quality as required in Subsection R392-302-27 ([5]6)(e).~~

~~(p)17] A spa pool is exempt from the Section R392-302-22, except for Section R392-302-22(3).~~

~~(e)18] The maximum water temperature for a spa pool is 104 degrees Fahrenheit, 40 degrees Celsius.~~

~~(f)19] A spa pool shall meet the total alkalinity requirements of R392-302-27 (3)(d).~~

~~(s)20] A spa pool must have a sign that meets the requirements of a "Rule Sign" in R392-302-[34]39[-](1),(2) and (3)(c) which contains the following information:~~

~~(i)1a] The word "caution" centered at the top of the sign.~~

~~(i)1b] Elderly persons and those suffering from heart disease, diabetes or high blood pressure should consult a physician before using the spa pool.~~

~~(i)1c] Persons suffering from a communicable disease transmissible via water may not use the spa pool. Persons using prescription medications should consult a physician before using the spa.~~

~~(i)1d] Individuals under the influence of alcohol or other impairing chemical substances should not use the spa pool.~~

~~(i)1e] Bathers should not use the spa pool alone.~~

~~(i)1f] Pregnant women should not use the spa pool without consulting their physicians.~~

~~(i)1g] Persons should not spend more than 15 minutes in the spa in any one session.~~

~~(i)1h] Children under the age of 14 must be accompanied and supervised by at least one responsible adult over the age of 18 years, when lifeguards are not on duty.~~

~~(i)1i] Children under the age of five years are prohibited from bathing in a spa or hot tub.~~

~~(i)1j] Running or engaging in unsafe activities or horseplay in or around the spa pool is prohibited.~~

~~(i)21] Water jets and air induction ports on spa pools must be controlled by an automatic timer which limits the duration of their use to 15 minutes per each cycle of operation. The operator shall mount the timer switch in a location which requires the bather to exit the spa before the timer can be reset for another 15 minute cycle or part thereof.]~~

~~(3) Wading Pools:]~~

R392-302-32. Special Purpose Pools: Wading Pools.

(1) Wading pools must meet all applicable requirements of all Sections of R392-302 in addition to those of this Section as they apply to special design features and uses of wading pools.

(a) Wading pool projects require consultation with the local health department having jurisdiction.

([a]2) Wading pools shall be separated from other pools. Wading pools may not share common circulation, filtration, or chemical treatment systems, or walls.

([b]3) A wading pool may not exceed a maximum water depth of 2 feet, 60.96 centimeters.

([e]4) The deck of a wading pool may be included as part of adjacent pool decks.

([d]5) A wading pool must have a minimum of one turnover per hour and have a separate circulation system.

([e]6) A wading pool that utilizes wall inlets shall have a minimum of two equally spaced inlets around its perimeter at a minimum of one in each 20 feet, 6.10 meters, or fraction thereof.

([f]7) A wading pool shall have drainage to waste through a quick opening valve to facilitate emptying the wading pool should accidental bowel discharge or other contamination occur. [

—(4) Hydrotherapy Pools.]

R392-302-33. Special Purpose Pools: Hydrotherapy Pools.

(1) Hydrotherapy pools must meet all applicable requirements of all Sections of R392-302 in addition to those of this Section as they apply to special design features and uses of hydrotherapy pools.

(a) Hydrotherapy pool projects require consultation with the local health department having jurisdiction.

([a]2) A hydrotherapy pool shall at all times comply with R392-302-27 Disinfection and Quality of Water, R392-302-28 Cleaning of Pools and R392-302-29 Supervision of Pools unless it is drained cleaned, and sanitized after each individual use.

([b]3) A hydrotherapy pool is exempt from all other requirements of R392-302, only if use of the hydrotherapy pool is restricted to therapeutic uses and is under the continuous and direct supervision of licensed medical or physiotherapy personnel.

([e]4) Local health departments may enter and examine the use of hydrotherapy pools to respond to complaints, to assure that use of the pool is being properly supervised, to examine records of testing and sampling, and to take samples to assure that water quality and cleanliness are maintained.

([d]5) A local health officer may grant an exception to section R392-302-31(4)(a) if the operator of the hydrotherapy pool can demonstrate that the exception will not compromise pool sanitation or the health or safety of users. [

—(5) Water Slides.]

R392-302-34. Special Purpose Pools: Water Slides.

(1) Water slides must meet all applicable requirements of all Sections of R392-302 in addition to those of this Section as they apply to special design features and uses of water slides.

(a) Water slide projects require consultation with the local health department having jurisdiction.

([a]2) Slide Flumes.

([i]a) The flumes within enclosed slides must be designed to prevent accumulation of hazardous concentrations of toxic chemical fumes.

([ii]b) All curves, turns, and tunnels within the path of a slide flume must be designed so that body contact with the flume or tunnel does not present an injury hazard. The slide flume must be banked to keep the slider's body safely inside the flume.

([iii]c) The flume must be free of hazards including joints and mechanical attachments separations, splinters, holes, cracks, or abrasive characteristics.

([iv]d) Wall thickness of flumes must be thick enough so that the continuous and combined action of hydrostatic, dynamic, and static loads and normal environmental deterioration will not cause structural failures which could result in injury. The facility operator or owner shall insure that repairs or patchwork maintains original designed levels of safety and structural integrity. The facility operator or owner shall insure that repairs or patchwork is performed in accordance with manufacturer's guidelines.

([v]e) Multiple-flume slides must have parallel exits or be constructed, so that the projected path of their centerlines do not intersect within a distance of less than 8 feet, 2.44 meters, beyond the point of forward momentum of the heaviest bather permitted by the engineered design.

([vi]f) A slide flume exit must provide safe entry into the splash pool. Design features for safe entry include a water backup, and a deceleration distance adequate to reduce the slider's exit velocity to a safe speed. Other methods may be acceptable if safe exiting from the slide flume is demonstrated to the [d]Department.

([b]3) Flume Clearance Distances.

([i]a) A distance of at least 4 feet, 1.22 meters, must be provided between the side of a slide flume exit and a splash pool side wall.

([ii]b) The distance between nearest sides of adjacent slide flume exits must be at least 6 feet, 1.83 meters.

([iii]c) A distance between a slide flume exit and the opposite end of the splash pool, excluding steps, must be at least 20 feet, 6.10 meters.

([iv]d) The distance between the side of the vehicle flume exit and the pool side wall must be at least 6 feet, 1.83 meters.

([v]e) The distance between nearest sides of adjacent vehicle slide flume exits must be at least 8 feet, 2.44 meters.

([vi]f) The distance between a vehicle slide flume exit and the opposite end of the splash pool, excluding steps, must be long enough to provide clear, unobstructed travel for at least 8 feet, 2.44 meters, beyond the point of forward momentum of the heaviest bather permitted by the engineered design.

([e]4) Splash Pool Dimensions.

([i]a) The depth of a water slide splash pool at the end of a horizontally oriented slide flume exit must be at least 3 feet, 9.14 centimeters, but may be required to be deeper if the pool design incorporates special features that may increase risks to bathers as determined by the [d]Department.

([ii]b) The depth must be maintained in front of the flume for a distance of at least 20 feet, 6.10 meters, from which point the splash pool floor may have a constant slope upward. Slopes may not be designed or constructed steeper than a 1 to 10 ratio.

([iii]c) The operating water depth of a vehicle slide splash pool, at the flume exit, must be a minimum of 3 feet 6 inches, 1.07 meters. This depth must be maintained to the point at which forward travel of the vehicle ends. From the point at which forward travel ends, the floor may have a constant upward slope to the pool exit at a ratio not to exceed 1 to 10.

([iv]d) The [d]Department may waive minimum depth and distance requirements for a splash pool and approve a special exit system if the designer can demonstrate to the [d]Department that safe exit from the flume into the splash pool can be assured.

([v]e) A travel path with a minimum width of 4 feet, 1.22 meters, must be provided between the splash pool deck and the top of the flume.

([d]5) General Water Slide Requirements.

([i]a) Stairways serving a slide may not retain standing water. Stairways must have non-slip surfaces and shall conform to the requirements of applicable building codes.

([ii]b) Vehicles, including toboggans, sleds, inflatable tubes, and mats must be designed and manufactured of materials which will safeguard the safety of riders.

([iii]c) Water slides shall meet the bather load requirements of R392-302-7(1)(d).

([e]6) Water Slide Circulation Systems.

([i]a) Splash pool overflow reservoirs must have sufficient volume to contain at least two minutes of flow from the splash pool overflow. Splash pool overflow reservoirs must have enough water to insure that the splash pool will maintain a constant water depth.

([ii]b) The circulation and filtration equipment of a special purpose pool must be sized to turn over the entire system's water at least once every hour.

([iii]c) Splash pool overflow reservoirs must circulate water through the water treatment system and return when flume supply service pumps are turned off.

([iv]d) Flume pumps and motors must be sized, as specified by the flume manufacturer, and must meet all NSF/ANSI 50-2015, Section 6. Centrifugal Pumps, standards for pool pumps.

([v]e) Flume supply service pumps must have check valves on all suction lines.

([vi]f) The splash pool and the splash pool overflow reservoir must be designed to prohibit bather entrapment as water flows from the splash pool to the overflow reservoir.

([vii]g) Perimeter overflow gutter systems must meet the requirements of Section R392-302-19, except that gutters are not required directly under slide flumes or along the weirs which separate splash pools and splash pool overflow reservoirs.

([viii]h) Pump reservoir areas must be accessible for cleaning and maintenance.

([f]7) Slide Signs.

([i]a) Signs that meet the requirements in R392-302-[34]39(1), (2) and (3)(c) and reflecting the slide manufacturer's recommendations must be mounted adjacent to the entrance to a water slide and at other appropriate areas in accordance with R392-302-[34]39(1). The heading of the signs shall be, "SLIDE INSTRUCTIONS, WARNINGS, AND REQUIREMENTS". The body of the signs shall state at least the following:

([A]i) Instructions including:

([H]A) proper riding position,

([H]B) expected rider conduct,

([H]C) dispatch procedures,

([F]D) exiting procedures, and

([V]E) obeying slide attendants or lifeguards.

([B]ii) Warnings to include:

([H]A) slide characteristics such as speed, and

([H]B) depth of water in splash zone.

([E]iii) Requirements which include that riders being free of medical conditions identified by the manufacturer such as pregnancy, heart conditions, back conditions, or musculoskeletal conditions.[

~~(6) Interactive Water Feature Requirements.]~~

R392-302-35. Special Purpose Pools: Interactive Water Features.

(1) Interactive water features must meet all applicable requirements of all Sections of R392-302 in addition to those of this Section as they apply to special design features and uses of interactive water features.

(a) Interactive water feature projects require consultation with the local health department having jurisdiction.

([a]2) All parts of the interactive water feature shall be designed, constructed, maintained, and operated so there are no slip, fall, or other safety hazards, and shall meet the standards of the State Construction Code Title 15a, State Construction and Fire Codes Act.

([b]3) Interactive water feature nozzles that spray from the ground level shall be flush with the ground, with openings no greater than one-half inch in diameter. Spray devices that extend above ground level shall be clearly visible.

([e]4) Areas adjacent to the water feature collection zones shall be sloped away at a minimum of two percent from the interactive water feature to deck drains or other approved surface water disposal systems. A continuous deck at least 3 feet, 0.91 meters, wide as measured from the edge of the collection zones must extend completely around the interactive water feature.

([d]5) Water discharged from all interactive water feature fountain or spray features shall freely drain by gravity flow through a main drain fitting to a below grade sump or collection system which discharges to a collector tank.

([e]6) All interactive water feature foggers and misters that produce finely atomized mists shall be supplied directly from a potable water source and not from the underground reservoir.

([f]7) The interactive water feature shall have an automated oxidation reduction potential (ORP) and pH controller installed and in operation whenever the feature is open for use. The controller shall be capable of maintaining disinfection and pH levels within the requirements for special purpose pools listed in Table 6. In addition, an approved secondary disinfection system that meets the requirements of in R392-302-[33]38(4)(c) through (4)(f)(iii) shall be installed and in operation whenever the feature is open for use.

([g]8) A sign that meets the requirement R392-302-[34]39(1), (2) and (3)(c) stating:

([i]a) The word "CAUTION" centered at the top of the sign.

([ii]b) No running on or around the interactive water feature.

([iii]c) Children under the age of 12 must have adult supervision.

([iv]d) No food, drink, glass or pets are allowed on or around the interactive water feature.

([v]e) For the health of all users restrooms shall be used for the changing of diapers.

([h]9) If the interactive water feature is operated at night, five foot-candles of light shall be provided in the all areas of the water

feature. Lighting shall be installed in accordance with manufacturer's specifications and approved for such use by UL or NSF.

([i]10) Hydraulics.

([i]a) The interactive water feature filter system shall be capable of filtering and treating the entire water volume of the water feature within 30 minutes.

([i]b) The interactive water feature filter system shall draft from the collector tank and return filtered and treated water to the tank via a minimum of 4 equally spaced inlet fittings. Inlet spacing shall also meet the requirements of section R392-302-17.

([i]c) The interactive water feature circulation system shall be on a separate loop and not directly interconnected with the interactive water feature pump.

([i]d) The suction intake of the interactive water feature pump in the underground reservoir shall be located adjacent to the circulation return line and shall be located to maximize uniform circulation of the tank.

([i]e) An automated water level controller shall be provided for the interactive water feature, and the drinking water line that supplies the feature shall meet the requirements of R392-302-4.

([i]f) The water velocity through the feature nozzles of the interactive water features shall meet manufacturer's specifications and shall not exceed 20 feet per second.

([i]g) The minimum size of the interactive water feature sump or collector tank shall be equal to the volume of 3 minutes of the combined flow of all feature pumps and the filter pump. Access lids or doors shall be provided to the sump and collector tank. The lids or doors shall be sized to allow easy maintenance and shall provide security from unauthorized access. Stairs or a ladder shall be provided as needed to ensure safe entry into the tank for cleaning and inspection.

([i]h) The suction intake from the interactive water feature circulation pump shall be located in the lowest portion of the underground reservoir.

([i]i) A means of vacuuming and completely draining the interactive water feature tank shall be provided.

([i]11) An interactive water feature is exempt from:

([i]a) The wall requirement of section R392-302-10;

([i]b) The ladder, recessed step, stair, and handrail requirements of section R392-302-12;

([i]c) The fencing and access barrier requirements of section R392-302-14;

([i]d) The outlet requirements of section R392-302-18 except any submerged outlet that may create an entrapment hazard to users of the feature shall meet the requirements of R392-302-18(1)(a);

([i]e) The overflow gutter and skimming device requirements of section R392-302-19;

([i]f) The safety and lifesaving requirements of section R392-302-22, except that an interactive water feature shall be equipped with a first aid kit as required by subsection R392-302-22(3);

([i]g) The restroom and shower facility requirements of section R392-302-25 as long as toilets, lavatories and changing tables are available within 150 feet;

([i]h) The pool water clarity and temperature requirements of subsection R392-302-27(4);

([i]i) The diving area requirement of R392-302-11 except R392-302-11(4)(a) and (b) may be required by the Local Health Officer if the Local Health Officer determines that a diving risk exists;

([i]j) The depth marking and safety rope requirements of R392-302-15;

([i]k) The underwater lighting requirements of R392-302-23(1),(2), and (3);

([i]l) The supervision of bathers requirements of R392-302-30;

([i]m) The bather load requirements of R392-302-7; and

([i]n) The pool color requirements of R392-302-6(5).

([i]2) All interactive water features shall be constructed with a collection zone that meets the requirements of R392-302-6. Vinyl liners that are not bonded to a collection zone surface are prohibited. A vinyl liner that is bonded to a collection zone shall have at least a 60 millimeter thickness. Sand, clay, or earth collection zones are prohibited.

([i]a) The collection zone material of an interactive water feature must withstand the stresses associated with the normal uses of the interactive water feature and regular maintenance. The collection zone structure and associated tanks shall withstand, without any damage to the structure, the stresses of complete emptying of the interactive water feature and associated tanks without shoring or additional support.

([i]b) The collection zone of an interactive water feature must be designed and constructed in a manner that provides a smooth, easily cleanable, non-abrasive, and slip resistant surface. The collection zone surfaces must be free of cracks or open joints with the exception of structural expansion joints or openings that allow water to drain to the collector tank. Openings that drain to the collector tank shall not pass a one-half inch sphere. The owner of a non-cementitious interactive water feature shall submit documentation with the plans required in R392-302-8 that the surface material has been tested and passed by an American National Standards Institute (ANSI) accredited testing facility using one of the following standards that is appropriate to the material used:

([A]i) for pools built with prefabricated pool sections or pool members, the International Cast Products Association (ICPA) standard ANSI/ICPA SS-1-2001; or

([B]ii) a standard that has been approved by the Department based on whether the standard is applicable to the surface and whether it determines compliance with the requirements of Section R392-302-6.

R392-302-36. Special Purpose Pools: Instructional Pools.

(1) The Department shall undertake to investigate the public health related experiences and science of instructional pools operating with the exemptions in this section. That investigation shall be completed on June 30th, 2021, after which time this section will expire and may be replaced with minimum requirements based on the findings of the investigation. The Department will make those findings public 90 days prior to the expiration date.

(a) This investigation shall include periodic testing of the pool's water balance, disinfection level, total coliform, and heterotrophic plate count.

(2) An instructional pool is exempt from all requirements of R392-302.

(a) Pools operating under this exemption shall post a prominent sign stating that the pool does not conform to a standard design and is under evaluation to determine applicable standards to be implemented in the future. The lettering in this sign shall be no less than one centimeter in height.

(b) Pools operating under this exemption shall require parents of participating children to sign an acknowledgment that they have read and understand the notice required in R392-302-36(2)(a).

R392-302-~~32~~37. Advisory Committee.

(1) An advisory committee to the Department regarding regulation of public pools is hereby authorized.

(2) The advisory committee shall be appointed by the Executive Director. Representatives from local health departments, pool engineering, construction or maintenance companies and pool owners may be represented on the committee.

(3) Consistent with R380-1, the Executive Director may seek the advice of the advisory committee regarding interpretation of this rule, the granting of exemptions and related matters.

R392-302-~~33~~38. Cryptosporidiosis Watches and Warnings.

(1) The Executive Director or local health officer may issue cryptosporidiosis watches or cryptosporidiosis warnings as methods of intervention for likely or indicated outbreaks of cryptosporidiosis. The Executive Director or local health officer may issue a cryptosporidiosis watch if there is a heightened likelihood of a cryptosporidiosis outbreak. The Executive Director or local health officer may issue a cryptosporidiosis warning if there have been reports of cryptosporidiosis above the background level reported for the disease. The Executive Director or local health officer shall include the geographic area and pool type covered in the warning and may restrict certain persons from using public pools.

(2) If a cryptosporidiosis watch or a cryptosporidiosis warning has been issued, the operator of any public pool shall post a notice sign meeting at a minimum the ANSI Z535.2-2011 requirements for NOTICE signs with a 10-foot viewing distance and approved by the local health officer. An Adobe Acrobat .pdf version of the sign that meets the requirements of this section shall be made available from the Department or the local health department. The notice sign shall be placed so that all patrons are alerted to the cryptosporidium-targeted requirements prior to deciding whether to use the swimming pool. The sign shall be at least 17 inches, 43 centimeters, wide by 11 inches, 28 centimeters, high.

(a) Centered immediately below the blue panel shall appear the words "CRYPTO DISEASE PREVENTION" in capital letters.

(b) The body of the notice sign shall be in upper case letters at least 0.39 inches, 1.0 centimeters, high and include the following four bulleted statements in black letters:

-All with diarrhea in the past 2 weeks shall not use the pool.

-All users must shower with soap to remove all fecal material prior to pool entry and after using the toilet or a diaper change.

-All less than 3 yrs or who wear diapers must wear a swim diaper and waterproof swimwear. Diapers may only be changed in restrooms or changing stations.

-Keep pool water out of your mouth.

(3) If a cryptosporidium warning has been issued, each operator of a public pool subject to the warning shall, at a minimum, implement the following cryptosporidium counter measures:

(a) maintain the disinfectant concentration within the range between two mg/l (four mg/l for bromine) and the concentration listed on the product's Environmental Protection Agency mandated label as the maximum reentry concentration, but in no case more than five mg/l (10 mg/l for bromine);

(b) maintain the pH between 7.2 and 7.5; and

(c) maintain the cyanuric acid level that meets the requirement of R392-302-27(3), except the maximum level shall be reduced to 30 mg/l.

(4)(a) If a cryptosporidium warning has been issued, in addition to the requirements listed in R392-302-~~33~~38[-](3), the owner or operator of a public pool shall implement any additional cryptosporidium countermeasures listed in subsection below sufficient to achieve at least a 99.9 percent destruction or removal of cryptosporidium oocysts twice weekly, except as provided in R392-302-~~33~~38[-](4)(b).

(b) Hyperchlorination using sodium hypochlorite or calcium hypochlorite to achieve a concentration multiplied by time (CT) value of 15,300 mg/l minutes. Table 7 lists examples of chlorine concentrations and time periods that may be used to achieve the required CT value. The operator shall not allow anyone to use the pool if the chlorine concentration exceeds the Environmental Protection Agency maximum reentry concentration listed on the product's label, but in no case if the concentration exceeds five mg/l. The operator of any public pool not required to have a lifeguard by R392-302-30[-](2) shall hyperchlorinate at least once weekly.

(c) A full flow ultraviolet treatment system that meets the requirements of standard NSF/ANSI 50-2015 for ultraviolet light process equipment. The owner or operator shall ensure that the system is installed and operated according to the manufacturer's recommendations. The owner or operator shall obtain from the manufacturer of the system documentation of third-party challenge testing that the system can achieve a single pass 99.9 percent inactivation of cryptosporidium or the bacteriophage MS2 at the pool design flow rate and during normal operating conditions. The owner or operator shall maintain and make available for inspection the manufacturer's documentation.

(d) An ozone treatment system that achieves a CT value of 7.4 and a flow-through rate at least four times the volume of the pool every three and a half days. The system shall meet the requirements of standard NSF/ANSI 50-2015 for ozone process equipment. The owner or operator shall ensure that the system is installed and operated according to the manufacturer's recommendations.

(e) A cryptosporidium oocyst-targeted filter system installed and operated according to the manufacturer's recommendations. The filter shall meet the requirements of R392-302-20. The owner or operator shall obtain from the manufacturer of the system documentation of third-party challenge testing that the system can achieve a single pass 99 percent reduction of particles in the range of 4 to 6 microns or cryptosporidium oocysts at the pool design flow rate and normal operating conditions. The owner or operator shall maintain and make available for inspection the manufacturer's documentation.

(f) A system approved by the local health officer. The health officer's approval of a system for use as an alternative shall be based on the system's documented ability to:

(i) achieve cryptosporidium removal or inactivation to a level at least equivalent to the requirements in R392-302-~~33~~38[-](4)(a);

(ii) assure safety for swimmers and pool operators; and

(iii) comply with all other applicable rules and federal regulations.

TABLE 7

Chlorine Concentration and Contact Time to Achieve CT = 15,300

Chlorine Concentration	Contact Time
1.0 mg/l	15,300 minutes (255 hours)
10 mg/l	1,530 minutes (25.5 hours)
20 mg/l	765 minutes (12.75 hours)

(5) If the Executive Director or local health officer issues a restriction on the use of public pools by certain persons as part of the cryptosporidium warning the operator shall restrict persons within that segment of the population from using the facility.

(6) If the Executive Director or local health officer determines that a pool is a cryptosporidiosis threat to public health, he may order the pool to close. The owner or operator of the pool may not reopen until the person issuing the order has rescinded it.

R392-302-[34]39. Signs.

(1) Signs required in R392-302 shall be placed to alert and inform patrons in enough time that the patrons may take appropriate actions.

(2) Signs shall be written in a lettering style, stroke width, spacing, and contrast with the background such that the sign is clearly visible.

(3) As required in different subsections of this rule, sign lettering shall meet one or more, if stated, of the following minimum size standards:

(a) "4 Inch Safety Sign" shall be written in all capital letters that are at least four inches, 10.2 centimeters in height.

(b) "2 Inch Safety Sign" shall be written in all capital letters that are at least two inches, 5.1 centimeters, in height.

(c) "Rule Signs" shall be written with any required signal word, warning or caution, as the sign heading in letters at least two inches, 5.1 centimeters, in height and the body or bulleted rules in letters at least [4.5]0.5 inches, [3.8]1.27 centimeters, in height.

(i) If the sign can only be viewed from more than a distance of ten feet, 3.048 meters, the letter height shall be larger in the same proportion as the required viewing distance is to ten feet, 3.048 meters.

(ii) The Local Health Officer may approve smaller letter sizes than those required in R392-302-[34]39(3)(c) if the sign will always be viewed from less than a ten foot, 3.048 meters, distance and if the Local Health Officer agrees that the sign meets the requirements of R392-302-[34]39(1) and (2).

KEY: pools, spas, swimming, water

Date of Enactment or Last Substantive Amendment: ~~[June 1, 2017]~~ **2018**

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**Health, Disease Control and
Prevention, Environmental Services
R392-402
Mobile Home Park Sanitation**

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 42731

FILED: 03/29/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The changes to Rule R392-402 simplify the rule, remove outdated language and redundancies, and provide technical and conforming changes in accordance with the Rulewriting Manual for Utah.

SUMMARY OF THE RULE OR CHANGE: The changes to Rule R392-402 provide technical and conforming changes throughout the rule and remove unnecessary and repetitive language. Section R392-402-1 is a new section added to specify the statute under which this rule is authorized, and to explain the purpose of the rule. Section R392-402-2 is a new section added to describe individuals and groups to whom this rule applies, and to specify exclusions to such. In Section R392-402-3, added definitions for: local health department, local health officer, nuisance, occupant, operator, pest, Plumbing Code, plumbing fixture, premises, sanitary, vector, and vermin. Also, modified the definitions for: mobile home, mobile home park, and service building, and removed the definition for Director. In Section R392-402-4, the Department has made nonsubstantive revisions including the rewording and restructuring of this section to simplify the language and to clarify the intent to align more closely with the authorizing statute and the Rulewriting Manual for Utah. Substantive changes include the addition of a provision, similar to a "grandfather clause", that specifies that a construction change is not required in any portion of a manufactured home community that was in compliance before this rule goes into effect. In Sections R392-402-5 and R392-402-6, the Department of Health (Department) has made nonsubstantive revisions including the rewording and restructuring of these sections to simplify the language and to clarify the intent to align more closely with the authorizing statute and the Rulewriting Manual for Utah. In Section R392-402-7, specified the operator's duty to supply provisions for hand washing and solid waste disposal. In Section R392-402-8, the Department has made nonsubstantive revisions including the rewording and restructuring of this sections to simplify the language and to clarify the intent to align more closely with the authorizing statute and the Rulewriting Manual for Utah. In Section R392-402-9, the Department has made a reference to Rule R392-100 for any food services provided by the operator for manufactured home community occupants. In Section R392-402-10, the Department has made nonsubstantive revisions including the rewording and restructuring of this section to simplify the language and to clarify the intent to align more closely with the authorizing statute and the Rulewriting Manual for Utah. In Section R392-402-11, the Department has made nonsubstantive revisions including the rewording and restructuring of this section to simplify the language and to clarify the intent to align more closely with the authorizing statute and the Rulewriting Manual for Utah. Section R392-402-12 is a new

section that specifies the application of an authority granted a local health officer in Utah Title 26A. Section R392-402-13 is a new section that specifies the application of an authority granted to a local health officer in Utah Title 26A.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-1-5 and Section 26-15-2 and Section 26-7-1 and Subsection 26-1-30(23) and Subsection 26-1-30(9)

ANTICIPATED COST OR SAVINGS TO:

- ◆ **THE STATE BUDGET:** Repealing and reenacting Rule R392-402 will not result in a cost or benefit to the state budget.
- ◆ **LOCAL GOVERNMENTS:** Repealing and reenacting Rule R392-402 will not result in a cost or benefit to local governments.
- ◆ **SMALL BUSINESSES:** Repealing and reenacting Rule R392-402 will likely not result in a cost or benefit to small businesses. There are 71 small manufactured home businesses operating in the state under the NAICS code of 531190. The proposed reenacted rule does not require a construction change to any portion of a manufactured home community that was in compliance with the law in effect at the time the RV park was constructed. In addition, the proposed reenacted rule does not include fees such as inspection fees, or permit fees. Repealing and reenacting Rule R392-402 may result in an inestimable fiscal cost if, after the adoption of this rule, a business constructs a manufactured home community that allows community occupants to dwell in vehicles, manufactured homes, or temporary dwellings not provided with toilet, sink and bathing plumbing fixtures. The full impact to a business cannot be estimated, as the necessary data is unavailable because manufactured home community location, layout, number of spaces, water and wastewater accessibility, and operation and maintenance needs have not yet been considered by the business.
- ◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Repealing and reenacting Rule R392-402 will likely not result in a cost or benefit to persons other than small businesses, businesses, or local government entities because the proposed reenacted rule does not require a construction change to any portion of a manufactured home community that was in compliance with the law in effect at the time the RV park was constructed. In addition, the proposed reenacted rule does not include fees such as inspection fees, or permit fees.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons may include newly constructed small and non-small manufactured home community businesses.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: This rule was last revised in 1987. It has been updated and simplified at the request of the local health departments. There are four new sections: Section R392-402-1 sets out authority and purpose; Section R392-402-2 describes

individuals and groups governed by this section; Section R392-402-12 sets out authority of a local health office to conduct inspections and investigations in accordance with the Utah Code; and Section R392-402-13 sets out the authority of a local health officer to close a manufactured home community or site in accordance with the Utah Code. After conducting a thorough analysis, it was determined that the proposed reenacted 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
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 or mail at 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 05/15/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses
 There are no non-small businesses in the industry in question (NAICS 531190) in Utah. Repealing and reenacting Rule R392-402 will not result in a cost or benefit to non-small businesses.

R392. Health, Disease Control and Prevention, Environmental Services.

[R392-402. Mobile Home Park Sanitation.

R392-402-1. Definitions.

Director — shall mean the Executive Director of the Utah Department of Health.

Mobile Home — shall mean a factory assembled structure or structures equipped with the necessary service connections and made so as to be readily movable as a unit or units on its (their) own running gear and designed to be used as a dwelling unit(s) without a permanent foundation*. A modular home transported on wheels to its foundation shall not be considered a mobile home.

Mobile Home Park — shall mean a parcel (or contiguous parcels) of land which has been so designed and improved that it contains three or more mobile home lots available to the general public for the placement thereon of mobile homes for occupancy.

Service Building** — shall mean a building housing toilets, lavatories, bathing facilities, a service sink, and may also include laundry and other accommodations as may be required. Comfort of the occupant is provided for by adequate heating, lighting and ventilation.

Wastewater — shall mean discharges from all plumbing facilities, such as rest rooms, kitchen and laundry fixtures either separately or in combination.

*The phrase "without a permanent foundation" indicates that the mobile support system is maintained with the intent that the unit may be moved at the convenience of the owner.

**See Service Building.

R392-402-2. General.

2.1 It shall be the duty of each person operating a mobile home park in the State of Utah to carry out the provisions of these regulations. Such person should also have the duty of controlling the conduct of park occupants to this end, and shall make at least one daily inspection of the entire mobile home park for these purposes.

~~2.2 Severability - If any provision of this code, or its application to any person or circumstance is declared invalid, the application of such provision to other persons or circumstances, and the remainder of this code, shall not be affected thereby.~~

~~2.3 Mobile home park sites shall be designed and constructed to provide adequate surface drainage, and shall be isolated from any existing or potential health hazard or nuisance.~~

~~2.4 All applicable building, zoning, electrical, health, fire codes and all local ordinances shall be complied with.~~

R392-402-3. Water Supplies.

3.1 Potable water supply systems for use by mobile home park occupants shall meet the requirements of the State of Utah rules and regulations relating to public drinking water supplies.

3.2 In addition to the requirements of the rules and regulations relating to public drinking water supplies, the design of water system facilities shall be based on the suppliers engineer's estimates, but shall in no case be less than the following:

Source Capacity - 800 gallons per day per mobile home unit, peak daily flow.

Storage Volume - 400 gallons per mobile home unit, average daily flow.

Distribution System Capacity - Shall maintain a water system pressure in excess of 20 psi at all points in the distribution system during peak hourly flow conditions. Non-community systems in remote areas can be exempted from this requirement, on a case-by-case basis, if flow from the system is always unregulated and free-flowing. The peak hourly flow requirements shall meet or exceed those shown on Fig. 3-1.

Other exceptions to the above requirements may be permitted on a case-by-case basis as permitted by the State of Utah public drinking water rules.

3.2.1 The source and storage requirements as indicated above do not include water demands for outside use or fire protection. However, if the culinary system is intended to provide water for such uses, the water requirements indicated above must be appropriately increased. Special information on watering requirements (e.g. area of land to be irrigated) must be provided for Department of Health review.

3.3 Construction of a public drinking water supply system intended to serve occupants of any mobile home park shall not commence until plans prepared by a licensed professional registered engineer (in accordance with Title 58, Chapter 22, Professional Engineers, and Land Surveyors Licensing Act) have been submitted to and approved in writing by the Utah Department of Environmental Quality. Following construction, the system may not be placed in service until a final inspection is made by a representative of the Utah Department of Environmental Quality or local health department having jurisdiction.

3.3.1 All systems must be monitored in accordance with the State of Utah public drinking water rules and in cooperation with the local department having jurisdiction.

3.4 Any culinary system or portion thereof that is drained seasonally must be cleaned, flushed, and disinfected prior to use. Furthermore, a water sample of satisfactory bacteriologic quality, i.e. a sample showing not more than one coliform bacteria per 100 ml sample, must be obtained before being placed into service.

3.4.1 Systems operated on a seasonal basis may be required to sample for bacteriologic analysis at an accelerated frequency as

determined by the Director or director of the local health department having jurisdiction:

3.5 In any mobile home park, the following requirements shall apply:

3.5.1 Water service lines shall be made available to each mobile home space in accordance with the requirements of the Utah Plumbing Code and as further required in the following sections:

3.5.2 Shut-off valves on water connections for individual mobile homes shall be of the inverted key pattern stop and waste type or an approved anti-siphon yard hydrant.

3.5.3 Water connections serving individual mobile homes shall be at least 4 inches above the surrounding surface and shall be separated at least 5 feet horizontally from the sewer riser for such mobile homes. Water and sewer lines serving mobile home connections shall be separated at least 10 feet horizontally. Water and sewer lines may be installed closer, provided the following is adhered to:

3.5.3.1 The bottom of the water service pipe, at all points, shall be at least 18 inches above the top of the wastewater drainage line at its highest point, and in no instance less than 24 inches horizontal separation:

3.5.3.2 The water service pipe shall be placed on an undisturbed shelf excavated at one side of the common trench:

3.5.3.3 The number of joints in the service pipes shall be kept to a minimum. Materials and joints of both the water and sewer pipe shall be of a strength and durability, and so installed to prevent leakage under adverse conditions.

R392-401-4. Wastewater:

4.1 All wastewater shall be discharged to a public sewer system where accessible and within 300 feet of the mobile home park property line:

4.2 Where connection to a public sewer is not available, wastewater shall be discharged into a wastewater disposal system meeting requirements of the State of Utah rules for waste disposal. Unless water usage rates are available, design shall be based on not less than 400 gallons per day per mobile home unit.

4.3 All plans for the construction or alteration of a wastewater disposal system shall initially be submitted to the local health department having jurisdiction. Where plan approval is required by law to be provided by the State Department of Environmental Quality, such plans will be forwarded by the local authority along with any appropriate comments. Construction or alteration of the disposal system shall not commence until the plans have been approved in writing by the appropriate health agency:

4.3.1 Sewer service shall be made available to each designated mobile home space in accordance with the State of Utah rules for waste disposal:

4.3.2 Sewer risers serving individual mobile homes shall be provided with tight covers when not in use:

4.3.3 A trap is prohibited between the sewer riser and sewer lateral:

4.3.4 The connection and connecting line between the mobile home drain outlet and the sewer riser shall be watertight and self-draining:

4.3.5 The rim of the sewer riser shall not extend more than 4 inches above adjacent ground surface elevations. Surface drainage shall be directed away from the sewer riser. (See also Section 3.5.3.)

R392-402-5. Plumbing, Service Building.

5.1 The minimum plumbing fixtures which shall be available to all park occupants are as follows:

Plumbing Fixtures	Ratio of Plumbing Fixtures Per Number of Park Occupants*	
	Males	Females
Water Closets	1:50	1:25
Urinals	1:50	
Lavatories	1:50	1:50
Shower**	1:35	1:35

*Or fraction thereof. The number of park occupants shall be calculated on the basis of 3.5 persons for each mobile home.

**Showers are optional, but if provided shall comply with the table. Water system requirements under Section 3.2 may be modified to compensate for the absence of showers upon approval of the Director.

Service Building

5.2 In any mobile home park which accepts patrons with dependent recreational vehicles or tents, adequate service building facilities shall be provided and shall meet the following requirements:

5.2.1 They shall be located not less than 15 feet and not more than 500 feet from any living spaces served:

5.2.2 They shall be of permanent construction, and be provided with adequate light, heat and ventilation:

5.2.3 They shall be properly maintained and operated with interiors of smooth, moisture resistant materials, to permit frequent washing and cleaning:

5.2.4 They shall be adequately equipped with lavatories and with flush type toilet fixtures to serve all mobile home parking spaces not otherwise provided with such facilities:

5.3 All plumbing in mobile home parks shall comply with provisions of the Utah Plumbing Code, and applicable local plumbing codes. (This section does not apply to individual mobile homes per se.)

5.4 Plumbing fixtures which normally require water for their operation shall be supplied with adequate potable water supply under pressure:

R392-402-6. Operation and Maintenance.

6.1 All buildings, rooms and equipment in service buildings and the grounds surrounding them shall be maintained in a clean and operable condition:

6.2 All necessary means shall be employed to eliminate or control any infestations of insects and rodents within all parts of any mobile home park. This shall include adequate screening, skirting, or other approved control of outside openings in structures intended for occupancy or for food storage:

6.3 Whenever provisions are made for the accommodation of any recreational vehicles, such as travel trailers, camp trailers, truck campers or motor homes, in any mobile home park, such accommodations must conform to the requirements of R392-301.

R392-402-7. Solid Wastes:

7.1 Solid wastes, originating in any mobile home park, shall be stored in a sanitary manner in approved, watertight containers with

~~hds, or the equivalent, approved by the local health department. The containers shall be conveniently located and the contents shall be disposed of in a manner approved by the state or local health department having jurisdiction.~~

R392-402-8. Swimming Pools.

~~8.1 Any swimming pool, wading pool or therapy pool made available to occupants of a mobile home park shall comply with R392-302 and with applicable local regulations.]~~

R392-402. Manufactured Home Community Sanitation.

R392-402-1. Authority and Purpose.

(1) ~~This rule is authorized under Sections 26-1-5, 26-1-30(9) and (23), 26-7-1, and 26-15-2.~~

(2) ~~This rule establishes minimum standards for the sanitation, operation, and maintenance of a manufactured home community, as defined by this rule, and provides for the prevention and control of health hazards associated with a manufactured home community that are likely to affect individuals dwelling therein including risk factors contributing to injury, sickness, death, and disability.~~

R392-402-2. Applicability.

~~This rule applies to any person who owns or operates a manufactured home community, unless specifically exempted by this rule. This rule applies to the repair, maintenance, use, operation, and occupancy of manufactured home communities designed, intended for use, or otherwise used for human habitation.~~

R392-402-3. Definitions.

~~For the purposes of this rule, the following terms, phrases, and words shall have the meanings herein expressed:~~

(1) ~~"Building Code" means International Building Code as incorporated and amended in Title 15A, State Construction and Fire Codes Act.~~

(2) ~~"Clean" means the condition of being visibly free from dirt, soil, stain, leftover food particles, or other materials or substances not intended to be a part of the object in question.~~

(3) ~~"Local Health Department" has the same meaning as provided in Section 26A-1-102(5).~~

(4) ~~"Local health officer" means the health officer of the local health department having jurisdiction or their designated representative.~~

(5) ~~"Manufactured home" means a factory assembled structure or structures equipped with the necessary service connections and made so as to be readily movable as a unit or units on its own running gear and designed to be used as a dwelling unit without a permanent foundation. A modular home transported on wheels to its foundation is not a manufactured home.~~

(6) ~~"Manufactured home community" or "Community" means a parcel or contiguous parcels of land which has been so designed and improved that it contains three or more manufactured home lots available to the general public for the placement thereon of manufactured homes for occupancy.~~

(7) ~~"Nuisance" means a condition or hazard, or the source thereof, which may be deleterious or detrimental to the health, safety, or welfare of the public.~~

(8) ~~"Occupant" means any person living, sleeping, cooking, or eating in a manufactured home or having actual possession thereof whether as a tenant or owner-occupant.~~

(9) ~~"Operator" means any person who owns, leases, manages or controls, or who has the duty to manage or control a manufactured home community.~~

(10) ~~"Pest" means a noxious, destructive, or troublesome organism whether plant or animal, when found in and around places of human occupancy, habitation, or use which threatens the health or well-being of the public.~~

(11) ~~"Plumbing Code" means International Plumbing Code as incorporated and amended in Title 15A, State Construction and Fire Codes Act.~~

(12) ~~"Plumbing fixture" means a receptacle or device that is connected to the water supply system of the premises and demands a supply of water therefrom; discharges wastewater, liquid-borne waste materials, or sewage to the drainage system of the premises; or requires both a water supply connection and a discharge to the drainage system of the premises.~~

(13) ~~"Premises" means any lot, parcel, or plot of land, including any buildings or structure.~~

(14) ~~"Sanitary" means the condition of being free from infective, physically hurtful, diseased, poisonous, unwholesome, or otherwise unhealthful substances and being completely free from vermin, vectors, and pests and from the traces of either, and free of harborage for vermin, vectors, or pests.~~

(15) ~~"Service building" means a building, buildings or room housing toilet, lavatory, bathing, laundry and other facilities, including service sinks, as may be required for the use of manufactured home community occupants.~~

(16) ~~"Vector" means any organism, such as insects or rodents, that transmits a pathogen that can adversely affect public health.~~

(17) ~~"Vermin" means rats, mice, cockroaches, bedbugs, flies, or any other pest or vector as determined by the local health officer to be harmful to the life, health, or welfare of the public.~~

(18) ~~"Wastewater" means discharges from all plumbing facilities including rest rooms, kitchen, and laundry fixtures either separately or in combination.~~

R392-402-4. General.

(1) ~~This rule does not require a construction change in any portion of a community if the community was in compliance with the law in effect at the time the community was constructed, except as in R392-402-4(1)(a).~~

(a) ~~The local health officer may require construction changes if it is determined the community or portion thereof is dangerous, unsafe, unsanitary, a nuisance or menace to life, health, or property.~~

(2) ~~The operator shall carry out the provisions of this rule.~~

(3) ~~Severability - If any provision of this rule or its application to any person or circumstance is declared invalid, the application of such provision to other persons or circumstances, and the remainder of this rule, shall not be affected thereby.~~

(4) ~~The operator shall comply with all applicable building, zoning, electrical, health, fire codes and all local ordinances.~~

(5) ~~A manufactured home community operator or agent shall select or construct a location for the facility that will provide adequate surface drainage. The operator shall make a reasonable effort to locate the facility away from any existing public health hazard or nuisance.~~

(6) When an operator allows community occupants to dwell in vehicles or manufactured homes, or temporary dwellings not provided with toilet, sink and bathing plumbing fixtures, the operator shall construct and maintain a service building for occupant use according to the requirements of Section R392-402-7.

(7) Whenever provisions are made for the accommodation of any recreational vehicles, such as travel trailers, camp trailers, truck campers or motor homes, in a manufactured home community, such accommodations must conform to the requirements of Rule R392-301.

R392-402-5. Water Supply.

(1) Potable water supply systems for use by manufactured home community occupants shall be designed, installed, and operated according to the requirements set forth by:

(a) Plumbing Code;

(b) The Utah Department of Environmental Quality, Division of Drinking Water under Title R309; and

(c) Local health department regulations.

(2) The operator shall provide a potable water connection to each manufactured home space.

(a) Shut-off valves on water connections for individual manufactured homes shall be of the inverted key pattern stop-and-waste type or an approved anti-siphon yard hydrant.

(3) Plumbing fixtures that normally require water for their operation shall be supplied with adequate potable water supply under pressure.

(4) The operator shall provide hot and cold running water under pressure at each service building for showers or bath fixtures, hand sinks, and laundry facilities when provided.

(5) A manufactured home community in which spaces are set aside for vehicles, manufactured homes, or other temporary dwellings not provided with toilet, sink, and bathing plumbing fixtures, as in R392-402-4(6), shall be provided with a common-use, non-threaded water faucet or spigot that shall be accessible to community occupants.

R392-402-6. Wastewater.

(1) All wastewater shall be discharged to a public sanitary sewer system whenever practicable.

(a) Sewer systems for use by manufactured home community occupants shall be designed, installed, and operated according to the requirements set forth by:

(i) Plumbing Code;

(ii) The Utah Department of Environmental Quality, Division of Water Quality under Title R317;

(iii) local health department regulations; and

(iv) the local sewer district having jurisdiction.

(b) Where connection to a public sewer is not available, wastewater shall be discharged into an approved wastewater disposal system meeting the requirements of Title R317, Environmental Quality, Water Quality, and local health department regulations.

(c) The operator shall submit all required plans for the construction or alteration of a wastewater disposal system in accordance with Title R317 prior to commencing construction or alteration.

(2) Sewer service shall be made available to each designated manufactured home space and the operator shall design, install, operate, and maintain individual connections to the sewer system according to the requirements set by:

(a) Plumbing Code;

(b) the Utah Department of Environmental Quality, Division of Water Quality;

(c) local health department regulations; and

(d) the local sewer district having jurisdiction.

(3) The operator shall provide tight-fitting covers for all sewer risers not in use.

R392-402-7. Service Building Requirements.

(1) A manufactured home community in which spaces are set aside for vehicles, manufactured homes, or other temporary dwellings not provided with toilet, sink, and bathing plumbing fixtures, as in R392-402-4(6), shall be provided with a service building or buildings for the exclusive use of the occupants and employees of the manufactured home community.

(2) Except as provided in Subsection R392-402-7(2)(a)(i), separate toilet rooms within the service building shall be provided for each sex. These rooms shall be distinctly marked "for men" and "for women" by signs printed in English, or marked with easily understood pictures or symbols.

(a) Each service building shall have one toilet, one hand sink, and one bath fixture for each sex for each 15 sites set aside in Subsection R392-402-4(6), or fraction thereof.

(i) Where a toilet room will be occupied by no more than one person at a time, can be locked from the inside, and contains at least one toilet, separate toilet rooms for each sex need not be provided.

(ii) Urinals may be substituted for up to half of the required number of toilets for males, provided the urinal is installed in addition to a toilet at the same location.

(b) A service building shall be located not less than 15 feet and not more than 500 feet from any site set aside for vehicles, manufactured homes, or other temporary dwellings not provided with toilet, sink, and bathing plumbing fixtures, as in R392-402-4(6).

(3) Service buildings shall meet the following requirements:

(a) Each shall be of permanent construction, meeting the requirements of Building Code.

(b) Each shall be provided with adequate light and ventilation.

(c) Each shall be constructed of smooth, moisture resistant finish materials to withstand frequent washing and cleaning.

(d) Each shall be maintained in a clean and sanitary condition.

(4) The operator shall provide clean individual disposable towels near handwashing sinks. Alternate hand drying methods approved by the local health officer may be substituted for individual disposable towels.

(5) The operator shall provide soap and waste receptacles with lids in each service building.

(6) For each toilet room within a service building, the operator shall provide:

(a) toilet tissue in suitable dispensers; and

(b) at least one solid, easily cleanable, covered waste receptacle for the collection of solid waste; or

(c) at least one solid, easily cleanable, uncovered waste receptacle and a sanitary napkin receptacle.

(7) The operator shall provide water heating equipment capable of heating water to a minimum temperature of 110° F, and shall maintain such in proper operating condition.

(8) Each service building shall be provided with at least one service sink or utility sink.

(9) Approaches to any service building shall be free from obstruction.

(10) Sinks shall be located either in the same room as toilet fixtures or immediately adjacent to the toilet room or service building.

(11) Interior spaces intended for human occupancy shall be provided with active or passive space heating systems capable of maintaining an indoor temperature of not less than 68 degrees F at a point three feet above the floor.

R392-402-8. Operation and Maintenance.

(1) The operator shall maintain all common-use buildings, rooms, and equipment, including provided furnishings and equipment in manufactured home community areas, and the grounds surrounding them in a clean and operable condition, and free of litter and debris.

(2) Where necessary, the operator shall employ all reasonable means to eliminate or control infestations of vermin within all parts of any manufactured home community. This shall include approved screening or other approved control of outside openings in common-use buildings.

(3) The operator shall maintain interior roads and parking areas in a manner that prevents harborage for vermin or fugitive dust.

R392-402-9. Food Service.

When the operator provides food service for manufactured home community occupants, food service, storage, and preparation shall comply with the FDA Model Food Code as incorporated and amended in Rule R392-100 and local health department regulations.

R392-402-10. Solid Wastes.

(1) The operator shall provide adequate containers to prevent the accumulation of solid waste in the manufactured home community.

(2) Solid waste generated at a manufactured home community or picnic area shall be stored in a leak-proof, non-absorbent container, which shall be kept covered with a tight-fitting lid.

(3) All solid wastes shall be disposed with sufficient frequency and in such a manner as to prevent insect breeding, rodent harborage, or a public health nuisance.

R392-402-11. Swimming Pools.

The operator shall comply with Rule R392-302, Design, Construction, and Operation of Public Pools as well as other local health department regulations for all pools or spas made available to manufactured home community occupants or staff.

R392-402-12. Inspections and Investigations.

(1)(a) Upon presenting proper identification, the operator shall permit the local health officer to enter upon the premises of a manufactured home community to perform inspections, investigations, reviews, and other actions as necessary to ensure compliance with Rule R392-402.

(b) The local health officer may not enter an occupied manufactured home without the express permission of the occupant except when a warrant is issued to a duly authorized public safety officer which authorizes the local health officer to enter, or when

the operator and the local health officer determine that there exists an imminent risk to the life, health, or safety of the occupant.

R392-402-13. Closing of Manufactured Home Communities or Sites.

(1) If a local health officer deems a manufactured home community, housing site, space, or portion thereof to be an imminent risk to the life, health, or safety of the public, the community, housing site, or space may be closed or its use may be restricted, as determined by the local health officer.

(2) The operator shall restrict public access to the impacted area of any manufactured home community, housing site, or space closed or restricted to use by a local health officer within a reasonable time as ordered by the local health officer.

(3) It shall be unlawful for an operator to allow the public to utilize any manufactured home community, housing unit, space, or portion thereof that has been deemed unfit for use until written approval of the local health officer is given.

KEY: public health, mobile homes, manufactured home community, manufactured homes

Date of Enactment or Last Substantive Amendment: [1987]2018

Notice of Continuation: November 8, 2016

Authorizing, and Implemented or Interpreted Law: 26-15-2; 26-1-30(9); 26-1-30(23); 26-7-1

Health, Health Care Financing R410-14 Administrative Hearing Procedures

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42746

FILED: 03/30/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this change is to update and implement by rule the new grievance and appeals process for managed care organizations (MCOs) in accordance with federal law.

SUMMARY OF THE RULE OR CHANGE: This amendment clarifies the meaning of adverse benefit determinations as they relate to the MCO hearing process, and also updates provisions under the MCO grievance and appeals system.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: 42 CFR 438.400 et seq. and Section 26-1-24 and Section 26-1-5

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no impact to the state budget because this change only updates MCO hearing procedures and does not affect ongoing Medicaid services.

Funding for administrative hearing procedures is already within legislative budget allotments.

◆ LOCAL GOVERNMENTS: There is no impact to local governments because this change only updates MCO hearing procedures and does not affect ongoing Medicaid services. Funding for administrative hearing procedures is already within legislative budget allotments.

◆ SMALL BUSINESSES: There is no impact to small businesses because this change only updates MCO hearing procedures and does not affect ongoing Medicaid services. Funding for administrative hearing procedures is already within legislative budget allotments.

◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There is no impact to Medicaid providers or to Medicaid members because this change only updates MCO hearing procedures and does not affect ongoing Medicaid services. Funding for administrative hearing procedures is already within legislative budget allotments.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There is no impact to a single Medicaid provider or to a Medicaid member because this change only updates MCO hearing procedures and does not affect ongoing Medicaid services. Funding for administrative hearing procedures is already within legislative budget allotments.

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 change 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
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 143101, Salt Lake City, UT 84114-3101

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/15/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

None of the 12,600 managed care organization (MCO) providers in the state will see a fiscal impact because this rule only updates hearing procedures for MCOs and does not affect ongoing services for Medicaid members. Funding for administrative hearing procedures is already within legislative budget allotments.

R410. Health, Health Care Financing.

R410-14. Administrative Hearing Procedures.

R410-14-2. Definitions.

(1) The definitions in Rule R414-1 and Section 63G-4-103 apply to this rule.

(2) The following definitions also apply:

(a) "Action" means:

(i) a denial, termination, suspension, or reduction of medical assistance for a recipient[-];

(ii) [~~or~~] a reduction, denial or revocation of reimbursement for services for a provider;

(iii) [~~or~~] a denial or termination of eligibility for participation in a program, or as a provider[-];

(iv) [~~It also means~~] a determination[s] by skilled nursing facilities and nursing facilities to transfer or discharge residents;

(v) an[~~d~~] adverse determination[s-], as defined in Subsection R410-14-2(2)(b), [made by a state with regard to the preadmission screening and annual resident review requirements of Section 1919(e)(7) of the Social Security Act.]

(vi) an adverse benefit determination as defined in Subsection R410-14-20(2)(a); or

(vii) placement of a Medicaid enrollee on the restriction program.

(b) "Adverse determination" means a determination made in accordance with Sections 1919(b)(3)(F) or 1919(e)(7)(B) of the Social Security Act that the individual does not require the level of services provided by a nursing facility or that the individual does or does not require specialized services.

(c) "Agency" means Division of Medicaid and Health Financing (DMHF) within the Department of Health, the Department of Human Services (DHS), the Department of Workforce Services (DWS) or any managed health care organization (MCO) that has conducted or performed an action as defined in this rule.

(d) "Aggrieved person" means any recipient, enrollee, or provider who is affected by an action [~~or inaction~~] of an agency.

(e) "CHEC" means Child Health Evaluation and Care program, which is Utah's version of the federally mandated Early and Periodic Screening, Diagnosis and Treatment (EPSDT) Medicaid child health program.

(f) "De novo" means anew, or considering the question of a case for the first time.

(g) "DHS" means the Department of Human Services.

(h) "DOH" means the Department of Health.

(i) "DWS" means the Department of Workforce Services.

(j) "Eligibility Agency" means DWS or DHS or any entity the Agency contracts with to determine medical assistance eligibility.

(k) "Ex Parte" communications mean direct or indirect communication in connection with an issue of fact or law between the hearing officer and one party only.

(l) "Grievance" means an expression of dissatisfaction about any matter other than an action as defined in this rule. Grievances may include but are not limited to the quality of care of services provided, and aspects of interpersonal relationships such as rudeness of a provider or employee or failure to respect the rights of an enrollee of an MCO.

(m) "Grievance system" means the overall system that includes grievances and appeals handled by an MCO and access to the administrative hearing process set out in this rule.

(n) "Hearing Officer" means solely any person designated by the DMHF Director to conduct administrative hearings pursuant to this rule.

(o) "Managed Care Organization" or "MCO" means a health maintenance organization, a prepaid mental health plan or a dental managed care plan that contracts with DMHF to provide health,

behavioral health or oral health services to Medicaid or CHIP recipients.

(p) "Medical record" means a record that contains medical data of a medical assistance recipient or enrollee.

(q) "Provider" means any person or entity that is licensed and otherwise authorized to furnish health care to medical assistance recipients or medical assistance MCO enrollees.

(r) "Order" means a ruling by a hearing officer that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more specific persons.

(s) "Scope of service" means medical, oral or behavioral health services set out under R414 as a covered benefit.

(t) "State fair hearing" means an administrative hearing conducted pursuant to this rule.

R410-14-3. Administrative Adjudicative Procedures.

(1) Except as provided in this rule or as otherwise designated by rule or statute or converted pursuant to Subsection 63G-4-202(3), all adjudicative proceedings conducted pursuant to this rule are informal proceedings.

(2) Request for Agency Action. An aggrieved person may file a written request for agency action pursuant to Utah Code Ann. Section 63G-4-201, and in accordance with this rule.

(a) A provider may file a written request for agency action without the consent of the recipient or MCO enrollee if the request for agency action pertains to the denial of an authorization for service or a denial of payment on a claim.

(b) A provider may not file a request for agency action if the request for agency action pertains to the denial, change or termination of eligibility of a member or enrollee for a medical assistance program.

(3) If a medical issue is in dispute, each request shall include supporting medical documentation. DMHF shall schedule a hearing only when it receives sufficient medical records and may dismiss a request for agency action if it does not receive supporting medical documentation in a timely manner.

(4) Notice of Agency Action.

(a) An agency shall provide a written notice of action [~~or adverse action~~] to each aggrieved person. Such actions include but are not limited to:

(i) eligibility for assistance;

(ii) scope of service;

(iii) denial or limited prior authorization of a requested service including the type or level of service; and

(iv) payment of a claim.

(b) The notice must include:

(i) a statement of the action the agency intends to take;

(ii) the date the intended action becomes effective;

(iii) the reasons for the intended action;

(iv) the specific regulations that support the action, or the change in federal law, state law or DMHF policy which requires the action;

(v) the right to request a hearing;

(vi) the right to represent oneself, the right to legal counsel, or the right to use another representative at the hearing; and

(vii) if applicable, an explanation of the circumstances under which reimbursement for medical services will continue or may be reinstated pursuant to this rule.

(c) The agency shall mail the notice at least 10 calendar days before the date of the intended action except:

(i) the agency may mail the notice not later than the date of action in accordance with 42 CFR 431.213;

(ii) the agency may shorten the period of advance notice to five days before the date of action if it has facts that indicate it must take action due to probable fraud by the recipient or provider and the facts have been verified by affidavit.

R410-14-4. Hearings.

(1) DMHF shall conduct informal hearings for all issues except those specifically designated as formal hearings ~~[by]~~ pursuant to this rule. The hearing officer may convert the proceeding to a formal hearing if an aggrieved person requests a hearing that meets the criteria set forth in Section 63G-4-202.

(2) If a hearing under this rule is converted to a formal hearing pursuant to Section 63G-4-202, the formal hearing shall be conducted in accordance with these rules except as otherwise provided in Sections 63G-4-204 through 63G-4-208 or other applicable statutes.

(3) DMHF shall conduct a hearing in connection with an agency action if the Aggrieved Person requests a hearing and there is a disputed issue of fact. If there is no disputed issue of fact, the hearing officer may deny a request for an evidentiary hearing and issue a recommended decision without a hearing based on the record. In the recommended decision, the hearing officer shall specifically set out all material and relevant facts that are not in dispute.

(4) There is no disputed issue of fact if the Aggrieved Person submits facts that do not conflict with the facts that the agency relies upon in taking action or seeking relief.

(5) If the Aggrieved Person objects to the hearing denial, the person may raise that objection as grounds for relief in a request for reconsideration.

(6) An MCO may not require an Aggrieved Person to utilize arbitration or mediation in order to resolve an Action. An Aggrieved Person may file a request for hearing relating to an Action regardless of any contractual provision with an MCO which may require arbitration or mediation.

(7) The hearing officer may not grant a hearing if the issue is a state or federal law requiring an automatic change in eligibility for medical assistance or covered services that affect the Aggrieved Person.

R410-14-5. Request for Hearing.

(1) An aggrieved person shall request a hearing by submitting the request on the DMHF "Request for Hearing/Agency Action" form. The aggrieved person must then mail or fax the form to the address or fax number contained on the Notice of Agency Action or Request for Hearing Form. The request must explain why the aggrieved person is seeking agency relief.

(2) Except as set forth in Section R410-14-20, h[H]earings must be requested within the following deadlines:

(a) A medical assistance provider or recipient must request a hearing within 30 calendar days from the date that DMHF sends written notice of its intended action.

(b) A medical assistance recipient must request a hearing with DWS regarding eligibility for medical assistance within 90 calendar days from the date that the agency sends written notice of its intended action.

(c) A medical assistance recipient must request a hearing with DMHF regarding a determination of disability for the purposes of

medical assistance eligibility within 90 calendar days from the date that DMHF sends written notice of its intended action.

(d) A medical assistance recipient must request a hearing regarding approval or denial of a scope of service within 30 calendar days from the date the agency sends written notice of its intended action.

(3) A hearing request that an aggrieved person sends via mail is deemed filed on the date of the postmark. If the postmark date is illegible, erroneous, or omitted, the request is deemed filed on the date that the agency receives it, unless the sender can demonstrate through competent evidence of the mailing date.

(4) Failure to submit a timely request for a hearing constitutes a waiver of an individual's due process rights.

(5) DMHF may dismiss a request for a hearing if the Aggrieved Person:

(a) withdraws the request in writing;

(b) verbally withdraws the hearing request at a prehearing conference;

(c) fails to appear or participate in a scheduled proceeding without good cause;

(d) prolongs the hearing process without good cause;

(e) cannot be located or agency mail is returned without a forwarding address; or

(f) does not respond to any correspondence from the hearing officer or fails to provide medical records that the agency requests.

R410-14-20. MCO Grievance and Appeal System.

(1) The procedures in Section R410-14-20 apply only to appeals or requests for agency action arising from actions taken by an MCO.

~~(1)~~ For the purpose of this section, the following definitions apply:

(a) "~~Action~~Adverse benefit determination" means one of the following actions by an MCO:

(i) The denial or limited authorization of a requested service, including the type and level of services, requirements for medical necessity, appropriateness, setting or effectiveness of a covered benefit;

(ii) The reduction, suspension, or termination of a previously authorized service;

(iii) The denial, in whole or in part, of payment for a service;

(iv) The failure to provide services in a timely manner;

(v) The failure to act within the time frames provided in 42 CFR 438.408(b);

(vi) The denial of a request by a Medicaid enrollee[~~s~~ request] who is a resident of a rural area with only one MCO to exercise his or her right under 42 CFR 438.52(b)(2)(ii) to obtain services outside of the network; ~~[or]~~

(vii) The denial of an enrollee's request to dispute a financial liability, including cost sharing, copayments, premiums, deductibles, coinsurance, and other enrollee financial liabilities; or

~~(viii)~~ The restriction of a Medicaid enrollee that utilize services at a frequency or amount that are not medically necessary, in accordance with state utilization guidelines.

(b) "Appeal" means a ~~request for the MCO~~ review by an MCO of an "action" as defined in ~~[this section]~~ Section R410-14-20 or a request for DMHF to review a final decision rendered by an MCO as a result of the MCO's appeal process.

(c) "Grievance" means an expression of dissatisfaction about any matter other than an adverse benefit determination. Grievances may include, but are not limited to, the quality of care or services provided, and aspects of interpersonal relationships such as rudeness of a provider or employee, or failure to respect the enrollee's rights regardless of whether remedial action is requested. Grievance includes an enrollee's right to dispute an extension of time proposed by the MCO to make an authorization decision.

(d) Grievance and appeal system means the processes the MCO implements to handle appeals of an action and grievances.

(e) "Party" means the agency, or other person commencing an adjudicative proceeding, all respondents, and any MCO who is or may be obligated to pay a claim or provide a benefit or service to a recipient.

(2)3) An MCO shall establish a grievance and appeal system in accordance with this rule, 42 CFR 431.200 et seq. and 438.400 et seq. and the MCO's contractual obligations entered into with DMHF.

(3)4) The MCO grievance and appeal system shall include a written internal grievance and appeal procedure for aggrieved person to challenge an action by the MCO. [the approval for payment or denial of payment for medical services.]

(4)5) The MCO shall provide to its enrollees and providers written information that explains the grievance and appeal procedure including a right to request a state fair hearing in accordance with this rule.

(5)6) The MCO's notice of action shall comply with the requirements set out in Section R410-14-3 and 42 CFR 438.402 and 438.404.

(6)7) The MCO's written notice of final decision shall comply with the requirements set out in 42 CFR 438.408 and include an explanation of the aggrieved person's right to a state fair hearing pursuant to this rule.

(7)8) State fair hearings.

(a) Unless otherwise stated in this section, an aggrieved party may appeal an MCO final written disposition on an action by requesting a state fair hearing in accordance with this rule. The hearing request must include a copy of the final written notice of the MCO disposition.

(b) An aggrieved person must exhaust the MCO grievance and appeal procedure before [an enrollee or provider may] requesting a state fair hearing for an action other than the restriction of a Medicaid enrollee. In the case of an MCO that fails to adhere to the notice and timing requirements in 42 CFR 438.400 et seq., the enrollee is deemed to have exhausted the MCO's appeals process. The hearing request must include a copy of the final written notice of the MCO decision.

(c) The aggrieved party must [also] request a hearing within [30]120 days from the date of the MCO final written notice of the decision.

(d) Multiple MCO Participation in a state fair hearing.

(i) If an appeal is based on a dispute regarding the payment liability between two or more MCOs, the aggrieved person is not required to exhaust the MCO grievance procedure for each MCO before requesting a state fair hearing under this rule.

(ii) If DMHF identifies an MCO that may be liable to pay the claim and did not participate in the underlying grievance procedure, it shall send notice to that MCO that it may be subject to liability and its right to participate in the state fair hearing.

(iii) If more than one MCO is party to the state fair hearing, DMHF shall provide a notice to all parties that shall include the identity of all parties, the reason for the dispute, a copy of the hearing request and a statement that the MCO that did not participate in the underlying grievance and appeal procedure may be subject to payment liability and its right to participate in the state fair hearing.

(e) DMHF may, but is not required to, file an answer or other response or position statement in the hearing proceeding at any time so long as it gives notice to all other parties no less than five days before the hearing. If DMHF chooses not to file a response or position statement, it does not waive its right to participate in the hearing.

(9) Reversed appeal resolutions.

(a) If the MCO or the State fair hearing officer reverses a decision to deny, limit, or delay services that were not furnished while the appeal was pending, the MCO must authorize or provide the disputed services promptly and as expeditiously as the enrollee's health condition requires but no later than 72 hours from the date it receives notice reversing the determination.

(b) If the MCO or the State fair hearing officer reverses a decision to deny authorization of services, and the enrollee received the disputed services while the appeal was pending, the MCO or the State must pay for those services in accordance with State policy and regulations.

KEY: Medicaid

Date of Enactment or Last Substantive Amendment: [February 10, 2016]2018

Notice of Continuation: August 14, 2017

Authorizing, and Implemented or Interpreted Law: 26-1-24; 26-1-5; 63G-4-102

Health, Family Health and Preparedness, Emergency Medical Services **R426-9** Trauma and EMS System Facility Designations

NOTICE OF PROPOSED RULE (Amendment)

DAR FILE NO.: 42729

FILED: 03/29/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: These amendments provide a method to re-designate hospitals after they have a change in key personnel.

SUMMARY OF THE RULE OR CHANGE: The amendments include the process for a hospital to re-commit to their previous trauma designation when key personnel are replaced. It requires a new letter of commitment and a site visit for consultation.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 8a

AUTHORIZED BY: Joseph Miner, MD, Executive Director

ANTICIPATED COST OR SAVINGS TO:

- ◆ THE STATE BUDGET: No anticipated fiscal impact to the state budget because a fee already exists to cover the cost. The cost is neutral with the benefit. The fee and consultation average about one per year.
- ◆ LOCAL GOVERNMENTS: No anticipated fiscal impact to local governments because the amendments establish designation re-commitment and consultation visits. Local governments are not involved in either function.
- ◆ SMALL BUSINESSES: No impact on small businesses. These amendments pertain to large hospitals at the highest designation levels.
- ◆ PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES: There are 27 hospitals that are designated by the Utah Department of Health as trauma centers in Utah. These hospitals are considered non-small businesses and account for an estimated one site visit (1 of the 27 hospitals) for re-commitment per year. The fee per visit is \$150. These hospitals/businesses are expected to spend \$150 in total for a decrease in revenue per year. Additional relevant non-fiscal impacts would only include submission of a re-commitment letter, and time expended during the site visit with the Utah Department of Health representative.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons will not have any additional compliance costs except to have a site visit for the initial consultation. The cost is based on their decision to pursue the re-commitment of the designation level.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The fiscal impact on businesses is minimal as an average of only one center a year changes key personnel or ownership.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HEALTH
 FAMILY HEALTH AND PREPAREDNESS,
 EMERGENCY MEDICAL SERVICES
 3760 S HIGHLAND DR
 SALT LAKE CITY, UT 84106
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Jolene Whitney by phone at 801-273-6665, by FAX at 801-273-4165, or by Internet E-mail at jrwhitney@utah.gov or mail at PO Box 142004, Salt Lake City, UT 84114-2004

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/15/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2018

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$150	\$150	\$150
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$150	\$150	\$150
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$300	\$300	\$300
Fiscal Benefits			
State Government	\$150	\$150	\$150
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$150	\$150	\$150
Net Fiscal Benefits:	\$-150	\$-150	\$-150

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described in the narrative. Inestimable impacts for Non-Small Businesses are described in Appendix 2.

Appendix 2: Regulatory Impact to Non-Small Businesses

There are 27 hospitals that are designated by the Utah Department of Health as trauma centers in Utah. These hospitals are considered non-small businesses and account for an estimated one site visit (1 of the 27 hospitals) for re-commitment per year. The fee per visit is \$150. These hospitals/businesses are expected to spend \$150 in total for a decrease in revenue per year.

Additional relevant non-fiscal impacts would only include submission of a re-commitment letter, and time expended during the site visit with the Utah Department of Health representative.

R426. Health, Family Health and Preparedness, Emergency Medical Services.

R426-9. Trauma and EMS System Facility Designations.

R426-9-100. Authority and Purpose for Trauma System Standards.

(1) Authority - This rule is established under Title 26, Chapter 8a, 252, Statewide Trauma System, which authorizes the Department to:

- (a) establish and actively supervise a statewide trauma system;
- (b) establish, by rule, trauma center designation requirements and model state guidelines for triage, treatment, transport, and transfer of trauma patients to the most appropriate health care facility; and
- (c) designate trauma care facilities consistent with the trauma center designation requirements and verification process established by the Department and applicable statutes.

(2) This rule provides standards for the categorization of all hospitals and the voluntary designation of Trauma Centers to assist physicians in selecting the most appropriate physician and facility based upon the nature of the patient's critical care problem and the capabilities of the facility.

(3) It is intended that the categorization process be dynamic and updated periodically to reflect changes in national standards, medical facility capabilities, and treatment processes. Also, as suggested by the Utah Medical Association, the standards are in no way to be construed as mandating the transfer of any patient contrary to the wishes of his attending physician, rather the standards serve as an expression of the type of facilities and care available in the respective hospitals for the use of physicians requesting transfer of patients requiring skills and facilities not available in their own hospitals.

R426-9-200. Trauma System Advisory Committee.

(1) The trauma system advisory committee, created pursuant to 26-8a-251, shall:

- (a) be a broad and balanced representation of healthcare providers and health care delivery systems; and
- (b) conduct meetings in accordance with committee procedures.

(2) The Department shall appoint committee members to serve terms from one to four years.

(3) The Department may re-appoint committee members for one additional term in the position initially appointed by the Department.

(4) Causes for removal of a committee member include the following:

- (a) more than two unexcused absences from meetings within 12 calendar months;
- (b) more than three excused absences from meetings within 12 calendar months;
- (c) conviction of a felony; or
- (d) change in organizational affiliation or employment which may affect the appropriate representation of a position on the committee for which the member was appointed.

R426-9-300. Trauma Center Categorization Guidelines.

The Department adopts as criteria for Level I, Level II, Level III, IV and Pediatric trauma center designation, compliance with

national standards published in the American College of Surgeons document: Resources for Optimal Care of the Injured Patient 2014.

R426-9-400. Trauma Center Review Process.

(1) The Department shall conduct a quality review site visit of trauma centers and applicants to verify compliance with standards set in R426-9-300. In conducting each evaluation, the Department may consult with experts from the following disciplines:

- (a) trauma surgery;
- (b) emergency medicine;
- (c) emergency or critical care nursing; and
- (d) hospital administration.

(2) A consultant shall not assist the Department in evaluating a facility in which the consultant is employed, practices, or has any financial interest.

R426-9-500. Trauma Center Categorization Process.

The Department shall:

(1) Develop a survey document based upon the Trauma Center Criteria described in R426-9-300.

(2) Periodically survey all Utah hospitals which provide emergency trauma care to determine the maximum level of trauma care which each is capable of providing.

(3) Disseminate survey results to all Utah hospitals, and as appropriate, to Utah licensed ambulance providers.

R426-9-600. Trauma Center Designation Process.

(1) Hospitals seeking voluntary designation and all designated Trauma Centers desiring to remain designated, shall apply for designation by submitting the following information to the Department at least 30 days prior to the date of the scheduled site visit:

- (a) a completed and signed application and appropriate fees for trauma center verification;
- (b) a letter from the hospital administrator of continued commitment to comply with current trauma center designation standards as applicable to the applicant's designation level within 60 days of a change in ownership a new letter of commitment to comply with current designation standards shall be required;
- (c) the data specified under R426-9-7 are current;
- (d) Level I and Level II Trauma Centers must submit a copy of the Pre-review Questionnaire (PRQ) from the American College of Surgeons in lieu of the application in 1a above;
- (e) Level III and Level IV and Level V trauma centers must submit a complete Department approved application;

(f) a change of Trauma Program Medical Director or Trauma Program Manager shall require a consultative visit within 180 days of the change to insure that designation standards applicable to the trauma center's level of designation are maintained.

(2) Hospitals desiring to be designated as Level I and Level II Trauma Centers must be verified by the American College of Surgeons (ACS) within three (3) months of the expiration date of previous designation and must submit a copy of the full ACS report detailing the results of the ACS site visit. A Department representative must be present during the entire ACS verification or consultation visit. Hospitals desiring to be Level III or Level IV Trauma Centers must be designated by hosting a formal site visit by the Department.

(3) Hospitals not previously designated as a Level I or a Level II trauma center, applying for designation after December 31, 2016, will be considered for designation implementing the point

system suggested by the American College of Surgeons as follows and using data from the Utah Trauma Registry:

(a) population as defined by the federal Office of Management and Budget total Metropolitan Statistical Area (MSA);

(i) total MSA population of less than 600,000 receives 2 points,

(ii) total MSA population of 600,000 to 1,200,000 receives 4 points,

(iii) total MSA population of 1,200,000 to 1,800,000 receives 6 points,

(iv) total MSA population of 1,800,000 to 2,400,000 receives 8 points,

(v) total MSA population of greater than 2,400,000 receives 10 points.

(b) Median Transport Times (combined air and ground -- scene only no transfer);

(i) median transport time of less than 10 minutes received 0 points,

(ii) median transport time of 10 -- 20 minutes receives 1 points,

(iii) median transport time of 21 -- 30 minutes receives 2 points,

(iv) median transport time of 31 -- 40 minutes receives 3 points,

(v) median transport time of greater than 41 minutes receives 4 points.

(c) Department/System Stakeholder/Community Support;

(i) Department support for a trauma center(if none exist)or an additional trauma center in the MSA -- 5 points,

(ii) Department position that no additional trauma centers are needed -- negative 5 points,

(iii) Trauma System Advisory Committee (or equivalent body) statement of support for a trauma center (if none exist) or an additional trauma center in the MSA -- 5 points,

(iv) community support demonstrated by letters of support from 25- 50% of city and county governing bodies within the MSA -- 1 points,

(v) community support demonstrated by letters of support from over 50% of city and county governing bodies within the MSA -- 2 points.

(d) Severely injured patients (ISS more than 15) discharged from acute care facilities not designated as Level I, II, or III trauma centers;

(i) discharges of 0-200 severely injured patients receives 0 points,

(ii) discharges of 201 -- 400 severely injured patients receives 1 points,

(iii) discharges of 401 -- 600 severely injured patients receives 2 points,

(iv) discharges of 601 -- 800 severely injured patients receives 3 points,

(v) discharges of greater than 800 severely injured patients receives 4 points.

(e) Level I Trauma Centers;

(i) for the existence of each verified Level I trauma center already in the MSA assign 1 negative point,

(ii) for the existence of each verified Level II trauma center already in the MSA assign 1 negative point,

(iii) for the existence of each verified Level III trauma center already in the MSA assign 0.5 negative points.

(f) Numbers of severely injured patients (ISS more than 15) seen in trauma centers (Level I and II) already in the MSA. The expected number of high-ISS patients is calculated as: $500 \times (\text{Number of Level I and Level II centers in the MSA}) = (\text{Expected Number of high ISS patients})$;

(i) if the MSA has more than 500 severely injured patients above the expected number assign 2 points,

(ii) if the MSA has 0 - 500 severely injured patients above the expected number assign 1 point,

(iii) if the MSA has 0 - 500 fewer severely injury patients than the expected number assign 1 negative point,

(iv) if the MSA has more than 500 fewer severely injured patients than the expected number assign 2 negative points.

(g) The following scoring system shall be used to allocate trauma centers within the MSAs:

(i) MSAs with scores of 5 points or less shall be allocated 1 Level I or II trauma center;

(ii) MSAs with scores of 6 - 10 points shall be allocated 2 Level I or II trauma centers;

(iii) MSAs with score of 11 - 15 points shall be allocated 3 Level I or II trauma centers;

(iv) MSAs with scores of 16 - 20 points shall be allocated 4 Level I or II trauma centers.

(h) If the number of trauma centers allocated by the model is greater than the existing number of Level I or II trauma centers in the MSA, efforts should be undertaken to recruit and designate additional trauma centers.

(i) If the number of Level I and II trauma centers allocated by the model is less than or equal to the number currently designated, the Department should not designate additional Level I or II trauma centers in the MSA.

R426-9-700. Data Requirements for an Inclusive Trauma System.

(1) All hospitals shall collect, and monthly submit to the Department, Trauma Registry information necessary to maintain an inclusive trauma system. Designated trauma centers shall provide such data in a standardized electronic format approved by the Department. The Department shall provide funds to hospitals, excluding designated trauma centers, for the data collection process. In order to ensure consistent patient data collection, a trauma patient is defined as a patient sustaining a traumatic injury and meeting the following criteria:

(a) At least one of the following injury diagnostic codes: ICD10 Diagnostic Codes: S00-S00 with 7th character modifiers of A, B, or C only, T07, T14, T20-T28 with 7th character modifier of A, T30-T32, T79.A1-T79.A9 with 7th character modifier of A excluding the following isolated injuries: S00, S10, S20, S30, S40, S50, S60, S70, S80, S90. Late effect codes, which are represented using the same range of injury diagnosis codes but with the 7th digit modifier code of D through S are also excluded; and

(b) At least one of the following patient conditions:

Stay at a hospital greater than 12 hours (as measured from the Emergency Department arrival to patient discharge); transferred in or out of reporting hospital via EMS transport (including air ambulance); death resulting from the traumatic injury (independent of hospital admission or hospital transfer status).

(c) The Department adopt by reference the National Trauma Data Standard Data Dictionary for 2016 Admissions published by the American College of Surgeons, and the Utah Trauma Registry State Required Elements for 2016 published by the Department.

R426-9-800. Trauma Triage and Transfer Guidelines.

The Department adopts by reference the 2009 Resources and Guidelines for the Triage and Transfer of Trauma Patients published by the Utah Department of Health as model guidelines for triage, transfer, and transport of trauma patients. The guidelines do not mandate the transfer of any patient contrary to the judgment of the attending physician. They are a resource for pre-hospital and hospital providers to assist in the triage, transfer and transport of trauma patients to designated trauma centers or acute care hospitals which are appropriate to adequately receive trauma patients.

R426-9-900. Noncompliance to Trauma Standards.

(1) The Department may warn, reduce, deny, suspend, revoke, or place on probation a facility designation, if the Department finds evidence that the facility has not been or will not be operated in compliance to standards adopted under R426-9-300.

(2) A hospital, clinic, health care provider, or health care delivery system may not profess or advertise to be designated as a trauma center if the Department has not designated it as such pursuant to this rule.

R426-9-1000. Resource Hospital Minimum Designation Requirements.

A Resource Hospital shall meet the following minimum requirements for designation:

(1) Be licensed in Utah or another state as a general acute hospital or be a Veteran's Administration hospital operating in Utah;

(2) Have the ability to communicate with other EMS providers operating in the area;

(3) Provide on-line medical control for all pre-hospital EMS providers who request assistance for patient care, 24 hours-a-day, seven days a week;

(4) Create and abide by written pre-hospital emergency patient care protocols for use in providing on-line medical control for pre-hospital EMS providers;

(5) Train new staff on the protocols before the new staff is permitted to provide on-line medical control and annually review protocols with physician and nursing staff;

(6) Annually provide in-service training on the protocols to all physicians and nurses who provide on-line medical control;

(7) Make the protocols immediately available to staff for reference;

(8) Provide on-line medical control which shall include:

(a) direct voice communication with a physician; or

(b) a registered nurse or physician's assistant, who shall to be licensed in Utah, who is in voice contact with a physician;

(9) Implement a quality improvement process which shall include:

(a) representatives from local EMS providers that routinely transport patients to the resource hospital;

(b) quarterly meetings; and

(c) minutes of the quality improvement meetings which are available for Department review;

(10) Identify a coordinator for the pre-hospital quality improvement process;

(11) Cooperate with the pre-hospital EMS providers' off-line medical directors in the quality review process, including granting access to hospital medical records of patients served by the particular pre-hospital EMS provider;

(12) Participate in local and regional forums for performance improvement; and

(13) Assist the Department in evaluating EMS system effectiveness by submitting to the Department, in an electronic format quarterly data specified by the Department.

(14) Designated Trauma Centers are deemed to meet the Resource Hospital standards and are exempt from requirements outlined in this section.

(15) Resource Hospitals shall be designated for a period of three years.

R426-9-1100. Stroke Treatment and Stroke Receiving Facility Minimum Designation Requirements.

(1) A Primary or Comprehensive Stroke Treatment Center or an Acute Stroke Ready Hospital shall be accredited by the Joint Commission or other nationally recognized accrediting body.

(2) A hospital designated as a Stroke Receiving Facility for receiving stroke patients via Emergency Medical Services shall meet the following requirements:

(a) Be licensed as an acute care hospital in Utah;

(b) Require physician response to the emergency department in less than thirty (30) minutes for treatment of stroke patients;

(c) Maintain the ability of physician and nursing staff to utilize a standardized assessment tool for ischemic stroke patients;

(d) Maintain and utilize approved thrombolytic medications for treatment of patients meeting criteria for administration of thrombolytic therapy;

(e) Establish a standardized acute stroke protocol and authorize appropriate emergency department staff to implement the protocol when appropriate;

(f) Have ancillary equipment and personnel available to diagnose and treat acute stroke patients in a timely manner;

(g) Establish patient transport protocols with designated stroke treatment centers;

(h) Have a performance improvement program for acute stroke care and report data as required by the Department; and

(i) Submit to a site visit by representatives of the Department.

(3) Upon designation, the Department may, in consultation with off line EMS medical direction and protocol, recommend direct transport of stroke patients to a Stroke Receiving Center or a Stroke Treatment Center by licensed ambulance provider.

R426-9-1200. Percutaneous Coronary Intervention Center Minimum Designation Requirements.

(1) A Percutaneous Coronary Intervention (PCI) Center, for the purpose of receiving acute ST-elevation myocardial infarction (STEMI) patients via an ambulance, shall meet the following minimum designation requirements:

(a) Be licensed as an acute care hospital in Utah;

(b) Maintain an emergency department staffed by at least one (1) Physician and one (1) Registered Nurse at all times;

(c) Have the ability to receive 12 lead EKG data from licensed ambulance providers transporting patients to the hospital for treatment of ST Segment Elevation Myocardial Infarction (STEMI);

(d) Maintain the ability to provide cardiac catheterization and PCI of STEMI patients within ninety (90) minutes of patient arrival in the emergency department twenty four (24) hours a day and seven (7) days a week;

(e) Maintain a performance improvement program for STEMI care and report data to the Department as required by the Department; and

(f) Submit to a site visit by representatives of the Department.

(2) Upon designation, the Department may, in consultation with offline EMS medical direction and protocol, recommend direct transport of STEMI patients to a STEMI Treatment Center by a licensed ambulance provider.

(3) The PCI designation and re-designation period shall be for a period of three years.

R426-9-1300. Patient Receiving Facility Minimum Designation Requirements.

(1) A Patient Receiving Facility shall meet the following minimum designation requirements:

(a) Have the ability to communicate with licensed and designated EMS providers;

(b) Be staffed or have on-call physician, physician assistant, or nurse practitioner availability during designated hours with a response time of less than 20 minutes;

(c) Have and maintain ACLS and PALS certification;

(d) Attend meetings of the local EMS council, if one exists, to participate in the coordination and operations of local licensed and designated EMS providers;

(e) Abide by off-line protocols approved by the licensed ambulance provider's off-line medical director;

(f) Train staff on protocols used by the licensed ambulance providers who transport patients to the Patient Receiving Facility;

(g) Implement a quality improvement process of all patients received at the patient receiving facility with the local resource hospital or trauma center including access to medical records for patients transported by ambulance;

(h) Maintain equipment, services and medications on-site to provide Advanced Life Support (ALS) intervention and appropriate treatment. Equipment and services shall include:

(i) ECG;

(ii) ACLS medications;

(iii) laboratory services;

(iv) radiology services;

(v) oxygen delivery systems;

(vi) airway support equipment and supplies;

(vii) suction equipment and supplies; and,

(i) Submit to a yearly site visit by representatives of the Department; and

(j) Submit monthly data reports to the Department on all patients received by an ambulance, and in an electronic format provided by the Department.

(2) The Department may recommend the preferential transportation of STEMI patients by ambulance to a Patient Receiving Facility.

KEY: emergency medical services, trauma, reporting, trauma center designation

Date of Enactment or Last Substantive Amendment: [February 1, 2017]2018

Authorizing, and Implemented or Interpreted Law: 26-8a-252

**Health, Center for Health Data, Health
Care Statistics
R428-1
Health Data Plan and Incorporated
Documents**

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42728

FILED: 03/29/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: This rule change reports that the Data Submittal Guide, as corrected on 03/15/2018, should be used by submitters to Utah's All Payer Claims Database (APCD).

SUMMARY OF THE RULE OR CHANGE: The rule change makes one technical change as explained; clarifies version of APCD Data Submittal Guide, as corrected on 03/15/2018, that should be used by all APCD submitters for data submissions required on or after 03/01/2018. Original description in DSG (APCD Element MC055) Professional Procedure Code -- Procedure code for professional services. HCPCS, including CPT codes of the American Medical Association, are valid entries. Corrected description in DSG HCPCS/CPT Procedure Code -- Healthcare Common Procedural Coding System (HCPCS). This includes the CPT codes maintained by the American Medical Association.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 26-33a-109

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This rule change is not expected to have any fiscal impact on state government revenues or expenditures because it only clarifies the version of Data Submitter Guide expected for use by data submitters to Utah's APCD. The Utah Department of Health (UDOH) determines enactment of the amended version will not create any cost or savings impact to the state budget or UDOH's budget since the change will not increase workload and can be carried out with the existing budget.

◆ **LOCAL GOVERNMENTS:** This rule change is not expected to have any fiscal impact on local governments revenues or expenditures because they are not directly affected by this rule; nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments.

◆ **SMALL BUSINESSES:** This rule change is not expected to have any fiscal impact on small businesses' revenues or expenditures because all potentially impacted businesses have more than 50 employees. As a result, this rule will have no effect on small business budgets for costs or savings.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule change is not expected to have any fiscal impact on other individuals' revenues or expenditures because this change only clarifies a prior expectation.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Affected persons are as follows: state government and non-small businesses (APCD suppliers). However, no compliance costs are anticipated as a result of this technical change in Rule R428-1.

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 change will not result in a fiscal impact to businesses.

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

HEALTH
 CENTER FOR HEALTH DATA,
 HEALTH CARE STATISTICS
 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:

◆ Norman Thurston by phone at 801-538-7052, by FAX at 801-237-0787, or by Internet E-mail at nthurston@utah.gov or mail at PO Box 144004, Salt Lake City, UT 84114-4004

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/15/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0

Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:			
	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

There are 41 non-small businesses in the industry in question with each covering 2,500 or more Utah residents. These businesses will likely not experience a fiscal impact because the proposed change is a correction to previously-approved rule text.

Joseph Miner, MD, Executive Director for the Utah Department of Health, has reviewed and approved this fiscal analysis.

R428. Health, Center for Health Data, Health Care Statistics.

R428-1. Health Data Plan and Incorporated Documents.

R428-1-1. Legal Authority.

This rule is promulgated in accordance with Title 26, Chapter 33a.

R428-1-2. Purpose.

This rule adopts and incorporates documents related to the collection, analysis, and dissemination of data covered in this title.

R428-1-3. Health Data Plan Adoption.

As required by Section 26-33a-104, the Health Data Committee adopts by rule the health data plan dated October 3, 1991.

R428-1-4. Incorporation by Reference.

The following documents are adopted and incorporated by reference:

(1) "Utah Healthcare Facility Data Submission Guide" means:

(a) Utah Healthcare Facility Data Submission Guide, Version 1, January 15, 2016 for data submissions required before February 16, 2018, and

(b) Utah Healthcare Facility Data Submission Guide, Version 2 for data submissions required on or after February 16, 2018;

(2) "NCQA Survey Specifications" means:

(a) HEDIS 2017, Volume 3: Specifications for Survey Measures, published by NCQA for data submissions required before January 1, 2018, and

(b) HEDIS 2018, Volume 3: Specifications for Survey Measures, published by NCQA for data submissions required on or after January 1, 2018;

(3) "NCQA HEDIS Specifications" means:

(a) HEDIS 2017, Volume 5: HEDIS Compliance Audit: Standards, Policies, and Procedures, published by NCQA for data submissions required before January 1, 2018, and

(b) HEDIS 2018, Volume 5: HEDIS Compliance Audit: Standards, Policies, and Procedures, published by NCQA for data submissions required on or after January 1, 2018;

(4) "Data Submission Guide for Claims Data" means:

(a) Utah All-Payer Claims Database Data Submission Guide Version 3.0 for data submissions required before March 1, 2018, and

(b) Utah All-Payer Claims Database Data Submission Guide Version 3.1 (as corrected on March 15, 2018) for data submissions required on or after March 1, 2018.

KEY: health, health policy, health planning, APCD

Date of Enactment or Last Substantive Amendment: [~~December 12, 2017~~]**2018**

Notice of Continuation: November 10, 2016

Authorizing, and Implemented or Interpreted Law: 26-33a-104

Health, Family Health and Preparedness, Child Care Licensing **R430-8** Exemptions From Child Care Licensing

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 42745

FILED: 03/30/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of these changes is mostly to clarify the rule language, to add needed subsections, and to delete

some unnecessary subsections, so changes in statute, federal requirements, and rule committee and the Department of Health (Department) decisions can take effect. This rule needed to be rewritten to clearly define who is to be legally exempt and what is truly required of those who are exempt.

SUMMARY OF THE RULE OR CHANGE: The whole rule has been rewritten to make exemptions easier to understand, and to clearly define who is to be legally exempt and what is truly required of those who are exempt. The new drop-in exempt type has been added, the background screening piece has also been added, and clarification on the requirements for exempt facilities has been included.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 63G, Chapter 3

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The proposed reenacted rule adding drop-in child care to the exempt facilities is expected to have a fiscal impact on state government revenues because there are background checks required for all covered individuals in those facilities. Each background check is \$18 plus fingerprints for \$37 per individual. However, the full impact cannot be estimated because these facility types are not identified as such in the NAICS and there is no data available to make the estimates another way. Only after onsite visits are completed to facilities that might meet the definition, data could start being collected and available. In the same way and depending on the number of these facilities, there may be expenditures for the state budget in workload that cannot be calculated without the necessary data. The Department does not anticipate any additional costs or savings due to the other proposed rule changes.

◆ **LOCAL GOVERNMENTS:** These proposed changes are not expected to have any fiscal impact on local governments' revenues or expenditures because there is only one change that may affect facilities not yet identified as drop-in child care. No data is currently available to determine if there are any of this type that are part of a local government. There is only one business in the child care industry (NAICS 624410) in Utah operated by a local government, but that facility is exempt from the requirements of this rule. The Department does not anticipate any additional costs or savings due to the other proposed rule changes.

◆ **SMALL BUSINESSES:** Since no data is currently available to determine if there are any drop-in child care facilities not yet registered with Child Care licensing, the Department cannot determine how the rule will impact small businesses. Each background check is \$18 plus fingerprints for \$37 per individual. The number of new covered individuals these facilities will employ, if any, cannot be calculated because there is no data available to do so. The Department does not anticipate any additional costs or savings due to the other proposed rule changes.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Because no data is currently available to determine if there

are any drop-in child care facilities not yet registered with Child Care licensing, the Department cannot determine how the rule will impact businesses, individuals, local governments, and persons that are not small businesses. Only one rule that requires all covered individuals in the facility to submit background checks will have a fiscal impact, however, no data is available to make those calculations. The Department does not anticipate any additional costs or savings due to the other proposed rule changes.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since background checks and fingerprints will be required of any drop-in child care provider, all new exempt providers that meet this definition will have to comply with the costs. Background checks are \$18 per individual and \$37 for fingerprints. All covered individuals will be required to pay for fingerprints with no exceptions if they have not already done so. The Department cannot project the number of new exempt facilities since there is no data available to make those calculations.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The purpose of the changes was to delete unnecessary subsections, clearly define those legally exempt, and list requirements for exemption. Per the program: The whole rule has been rewritten to make exemptions easier to understand, and to clearly define who is to be legally exempt and what is truly required of those who are exempt. The new drop-in exempt type has been added, the background screening piece has also been added, and clarification on the requirements for exempt facilities has been included. The Department has no data to determine if there are any drop-in child care facilities not yet registered with Child Care licensing. Therefore, the fiscal impact on businesses cannot be determined at this time. 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
 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 05/15/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/28/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

***This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.**

Appendix 2: Regulatory Impact to Non-Small Businesses

The reenacted rule is not expected to have any fiscal impact on large businesses revenues or expenditures because the 13 large businesses in the child care industry (NAICS 624410) in Utah are either licensed or licensed exempt, and they are already in compliance with the requirements of the current rule. The reenacted rule will not affect them because the proposed rule does not increase or decrease costs for services they currently provide.

There is only one business in the child care industry (NAICS 624410) in Utah operated by the local government,

but that facility is exempt from the requirements of this rule.

Other business that may meet the definitions of a facility that needs to be license exempt cannot be clearly identified. The clarification of this rule will allow Child Care Licensing the ability to identify and register these facility types.

Department Head Comments:

The purpose of the changes was rewritten to delete unnecessary subsections, clearly define those legally exempt, and list requirements for exemption.

Per the program: The whole rule has been rewritten to make exemptions easier to understand, and to clearly define who is to be legally exempt and what is truly required of those who are exempt. The new drop-in exempt type has been added, the background screening piece has also been added, and clarification on the requirements for exempt facilities has been included.

The Department has no data to determine if there are any drop-in child care facilities not yet registered with Child Care licensing. Therefore, the fiscal impact on business cannot be determined at this time.

After conducting a thorough analysis, it was determined that this proposed rule will not result in a fiscal impact to businesses.

R430. Health, Family Health and Preparedness, Child Care Licensing.

R430-8. Exemptions From Child Care Licensing.

[R430-8-1. Legal Authority.

R430-8-2. Purpose.

This rule defines what constitutes child care that is exempt from regulation by the Utah Department of Health, Bureau of Child Care Licensing.

R430-8-3. Definitions.

(1) "Parochial education institution" means an institution that meets all of the following criteria:

(a) operates as a substitute for, and gives the equivalent of, instruction required in public schools for any grade from first through twelfth grade;

(b) has a governing board that actively supervises and directs the educational curriculum used by the institution and exercises oversight over the health and safety of the children in the program;

(c) is owned and operated by a religious institution that is registered with the federal government as 501(c)(3) religious organization;

(d) is not directly funded at public expense;

(e) does not receive:

(i) child care subsidy funds, directly or indirectly, from the Department of Workforce Services; or

(ii) child care food program funds, directly or indirectly, from the State Office of Education; and

(f) does not provide instruction in the home in lieu of instruction required in public schools for any grade from first through twelfth grade.

(2) "Private education institution" means an institution that meets all of the following criteria:

(a) operates as a substitute for, and gives the equivalent of, instruction required in public schools for any grade from first through twelfth grade;

(b) has a governing board that actively supervises and directs the educational curriculum used by the institution, and exercises oversight over the health and safety of the children in the program;

(c) is not directly funded at public expense;

(d) does not receive:

(i) child care subsidy funds, directly or indirectly, from the Department of Workforce Services; or

(ii) child care food program funds, directly or indirectly, from the State Office of Education; and

(e) does not provide instruction in the home in lieu of instruction required in public schools for any grade from first through twelfth grade.

(3) "Public school" means a school, including a charter school, that is directly funded at public expense and is regulated by a board of education governed by Title 53A, Chapter 3, Local School Boards.

(4) "Related children" means children for whom the child care provider is the:

(a) parent, legal guardian, or step-parent;

(b) grandparent, step-grandparent, or great-grandparent;

(c) sibling or step-sibling; or

(d) aunt, uncle, step-aunt, step-uncle, great-aunt, or great-uncle.

R430-8-4. Care Not in Lieu of Parental Care.

(1) A license is not required for care that meets all of the following:

(a) the parent is physically present in the building where the care is provided, at all times while the care is being provided, and is near enough to reach his or her child to provide care within five minutes if needed;

(b) the duration of the care is less than four hours for any individual child in any one day;

(c) the program does not diaper children; and

(d) the program does not prepare or serve meals to children.

R430-8-5. Care Under Other Government Oversight.

(1) A license is not required for care provided at a facility that is owned or operated by the federal government.

(2) A license is not required for care provided by a program that is owned or operated by the federal government.

(3) A license is not required for care provided as part of a summer camp that operates on federal land pursuant to a federal permit.

(4) A license is not required for care provided by an organization that qualifies for tax exempt status under Section 501(c)(3) of the Internal Revenue Code, if:

(a) the care is provided pursuant to a written agreement with a local municipality or a county;

(b) the local municipality or county provides oversight of the program; and

(c) all of the children in care are over age four.

(5) A license is not required for care provided at a residential support program that is licensed by the Department of Human Services.

R430-8-6. Mental Health Counseling.

~~_____ A license is not required for group counseling of children provided by a mental health therapist who is licensed to practice in this state, as defined in Utah Code 58-60-102.~~

R430-8-7. Relative Care.

~~_____ The Department does not issue licenses or certificates to persons who only care for related children.~~

R430-8-8. Care in the Home of the Provider.

~~_____ (1) A license or certificate is not required for care provided in the home of the provider for less than four hours per day, or for fewer than five children in the home at one time.~~

~~_____ (2) The Department does not issue licenses or certificates for care provided in the home of the provider on a sporadic basis only.~~

R430-8-9. Care Provided by an Educational Institution.

~~_____ (1) A license is not required for care provided by or at a public school or as part of a course of study at a public school.~~

~~_____ (2) A license is not required for care provided at a public or private institution of higher education if the care is provided in connection with a course of study at the institution of higher education.~~

~~_____ (3) A license is not required for:~~

~~_____ (a) care provided as part of a course of study at a private education institution; or~~

~~_____ (b) care provided as part of a program administered by a private education institution.~~

~~_____ (4) A license is not required for care provided by a parochial education institution.~~

R430-8-10. Care for Less Than Three Days a Week.

~~_____ (1) A license or certificate is not required if the provider offers care on no more than two days during any calendar week. A calendar week means from Sunday through Saturday.~~

R430-8-11. Voluntary Licensure.

~~_____ (1) A child care provider defined as exempt under this rule may voluntarily receive a license and agree to be subject to all of the terms and conditions of the license, except for the following:~~

~~_____ (a) relative care under section R430-8-7 above; and~~

~~_____ (b) care provided in the home of the provider on a sporadic basis only under subsection R430-8-8(2) above.]~~

R430-8-1. Legal Authority and Purpose.

~~_____ (1) This rule is enacted and enforced in accordance with Utah Code, Title 26, Chapter 39.~~

~~_____ (2) This rule defines what constitutes child care that is excluded from all or some of the regulatory requirements of the Utah Department of Health, Child Care Licensing Program.~~

R430-8-2. Definitions.

~~_____ (1) "Background Finding" means information that may result in an individual failing to pass a background check from Child Care Licensing.~~

~~_____ (2) "Background Check Denial" means that an individual has failed to pass the background check and is prohibited from being involved with a child care program.~~

~~_____ (3) "Calendar Week" means from Sunday through Saturday.~~

~~_____ (4) "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.~~

~~_____ (5) "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.~~

~~_____ (6) "Child Care Program" means a person or business that offers child care.~~

~~_____ (7) "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.~~

~~_____ (8) "Department" means the Utah Department of Health.~~

~~_____ (9) "Facility" means a child care program or the premises used for child care.~~

~~_____ (10) "Involved with Child Care" means to do any of the following at or for a child care program:~~

~~_____ (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.~~

~~_____ (11) "LIS Supported Finding" means background check information from the Licensing Information System (LIS) database for child abuse and neglect, maintained by the Utah Department of Human Services.~~

~~_____ (12) "Parochial Education Institution" means an institution that meets all of the following criteria:~~

~~_____ (a) operates as a substitute for, and gives the equivalent of, instruction required in public schools for any grade from first through twelfth grade;~~

~~_____ (b) has a governing board that actively supervises and directs the educational curriculum used by the institution and exercises oversight over the health and safety of the children in the program;~~

~~_____ (c) is owned and operated by a religious institution that is registered with the federal government as 501(c)(3) religious organization;~~

~~_____ (d) is not directly funded at public expense;~~

~~_____ (e) does not receive;~~

~~_____ (i) child care subsidy funds, directly or indirectly, from the Department of Workforce Services; or~~

_____ (ii) child care food program funds, directly or indirectly, from the State Office of Education; and

_____ (f) does not provide instruction in the home in lieu of instruction required in public schools for any grade from first through twelfth grade.

_____ (13) "Private Education Institution" means an institution that meets all of the following criteria:

_____ (a) operates as a substitute for, and gives the equivalent of, instruction required in public schools for any grade from first through twelfth grade;

_____ (b) has a governing board that actively supervises and directs the educational curriculum used by the institution, and exercises oversight over the health and safety of the children in the program;

_____ (c) is not directly funded at public expense;

_____ (d) does not receive;

_____ (i) child care subsidy funds, directly or indirectly, from the Department of Workforce Services; or

_____ (ii) child care food program funds, directly or indirectly, from the State Office of Education; and

_____ (e) does not provide instruction in the home in lieu of instruction required in public schools for any grade from first through twelfth grade.

_____ (14) "Public School" means a school, including a charter school, that is directly funded at public expense and is regulated by a board of education governed by Title 53A, Chapter 3, Local School Boards.

_____ (15) "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.

_____ (16) "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.

_____ (17) "Relative Care" means care provided to a qualifying child by or in the home of the parent, legal guardian, step-parent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, uncle, step-aunt, step-uncle, great-aunt, or great-uncle.

_____ (18) "Volunteer" means an individual who receives no form of direct or indirect compensation for their service.

R430-8-3. License or Certificate and Background Check Not Required.

_____ (1) The following types of care do not require a child care license or certificate from, or the submission of background check documents to, the Department:

_____ (a) Care provided on no more than two days during any calendar week;

_____ (b) Care provided in the home of the provider for less than four hours per day, or for fewer than five children in the home at one time;

_____ (c) Care provided in the home of the provider on a sporadic basis only;

_____ (d) Care provided by a facility or program owned or operated by an agency of the United States government;

_____ (e) a group counseling provided by a mental health therapist, as defined in Section 58-60-102, who is licensed to practice in this state;

_____ (f) a health care facility licensed pursuant to Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act; or

_____ (g) care provided at a residential support program that is licensed by the Department of Human Services.

R430-8-4. Background Check and Public Notice Required.

_____ (1) The following types of care do not require a child care license or certificate from the Department, but do require the provider to meet the background check and public notice requirements outlined in this rule:

_____ (a) Care provided to a qualifying child as part of a course of study at or a program administered by an educational institution that is regulated by the boards of education of this state, a private education institution that provides education in lieu of that provided by the public education system, or by a parochial education institution;

_____ (b) Care provided to a qualifying child by a public or private institution of higher education, if the care is provided in connection with a course of study or program, relating to the education or study of children, that is provided to students of the institution of higher education;

_____ (c) Care provided to a qualifying child at a public school by an organization other than the public school, if:

_____ (i) the care is provided under contract with the public school or on school property; or

_____ (ii) the public school accepts responsibility and oversight for the care provided by the organization;

_____ (d) Care provided to a qualifying child as part of a summer camp that operates on federal land pursuant to a federal permit;

_____ (e) Care provided by an organization that:

_____ (i) qualifies for tax exempt status under Section 501(c)(3) of the Internal Revenue Code;

_____ (ii) provides care pursuant to a written agreement with:

_____ (A) a municipality, as defined in Section 10-1-104, that provides oversight for the program; or

_____ (B) a county that provides oversight for the program; and

_____ (iii) provides care to a child who is over the age of four and under the age of 13;

_____ (f) Care provided to a qualifying child at a facility where:

_____ (i) the parent or guardian of the qualifying child is at all times physically present in the building where the care is provided and the parent or guardian is near enough to reach the child within five minutes if needed;

_____ (ii) the duration of the care is less than four hours for an individual qualifying child in any one day;

_____ (iii) the care is provided on a sporadic basis;

_____ (iv) the care does not include diapering a qualifying child, and

_____ (v) the care does not include preparing or serving meals to a qualifying child.

_____ (2) Providers listed in this subsection shall submit annually to the Department an application for verification of license exempt status, on the form provided by the Department.

_____ (3) Providers listed in this subsection shall post, in a conspicuous location near the entrance of the provider's facility, a notice prepared by the Department that:

_____ (a) states that the facility is exempt from licensure and certification; and

_____ (b) provides the department's contact information for submitting a complaint.

_____ (4) Substantiated complaint allegations against providers listed in this subsection will be posted by the Department on the Child Care Licensing website.

R430-8-5. Background Check Requirements and Appeals.

_____ (1) The requirements of this subsection apply to all facilities listed in subsection R430-8-4(1) above.

_____ (2) The provider shall submit to the Department background checks and fees for all covered individuals as defined in R430-8-2(7).

_____ (3) Before a new covered individual becomes involved with child care in the program, the provider shall:

_____ (a) have the individual submit an online background check form,

_____ (b) authorize the individual's background check form,

_____ (c) pay all required fees, and

_____ (d) receive written notice from CCL that the individual passed the background check.

_____ (4) The provider shall ensure that a CCL background check for each individual age 18 years or older includes fingerprints for a Next Generation, national criminal history check and fingerprints fees.

_____ (5) The fingerprints shall be prepared by a local law enforcement agency or an agency approved by local law enforcement.

_____ (6) If fingerprints are submitted through Live Scan (electronically), the agency taking the fingerprints shall follow the Department's guidelines.

_____ (7) Fingerprints are not required if the covered individual has:

_____ (a) previously submitted fingerprints to CCL for a Next Generation, national criminal history check;

_____ (b) resided in Utah continuously since the fingerprints were submitted; and

_____ (c) kept their CCL background check current.

_____ (8) Background checks are valid for 1 year and shall be renewed before the last day of the month listed on the covered individual's background check card issued by the Department.

_____ (9) At least 2 weeks before the end of the month that is written on a covered individual's background check card, the provider shall:

_____ (a) have the individual submit an online CCL background check form,

_____ (b) authorize the individual's background check form, and

_____ (c) pay all required fees.

_____ (10) 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 R430-8-6(10).

_____ (11) The following convictions, regardless of severity, may result in a background check 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.

_____ (12) A covered individual with a Class A misdemeanor background finding not listed in R430-8-6(11) 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.

_____ (13) A covered individual with a Class A misdemeanor background finding not listed in R430-8-6(11) 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.

_____ (14) If a petition for expungement is denied, the covered individual shall no longer be involved with child care.

_____ (15) A covered individual shall not be denied if the only background finding is a conviction or plea of no contest to nonviolent drug offenses that occurred 10 or more years before the CCL background check was conducted.

_____ (16) The Department may rely on the criminal background check 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.

_____ (17) If the provider has a background check denial, the Department may suspend or deny their exemption approval until the reason for the denial is resolved.

_____ (18) If a covered individual fails to pass a CCL background check, including that the individual has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, the provider shall prohibit that individual from being employed by the child care program or residing at the facility until the reason for the denial is resolved.

(19) If a covered individual is denied a license or employment based upon the criminal background check 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.

(20) 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.

(21) The Executive Director of the Department of Health may overturn a background check denial when the Executive Director determines that the nature of the background finding or mitigating circumstances do not pose a risk to children.

(22) An applicant or exempt provider may appeal any Department decision within 15 working days of being informed in writing of the decision.

R430-8-6. Voluntary Licensure.

(1) A child care provider who is not required to be licensed or certified under this rule may voluntarily receive a license and agree to be subject to all of the terms and conditions of the license, except for the following:

(a) relative care only as defined in R430-8-2(17); and

(b) care provided in the home of the provider on a sporadic basis only.

KEY: child care facilities

Date of Enactment or Last Substantive Amendment: ~~January 1, 2010~~ **2018**

Notice of Continuation: April 25, 2014

Authorizing, and Implemented or Interpreted Law: 26-39

Health, Family Health and Preparedness, Child Care Licensing **R430-50** Residential Certificate Child Care

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42734

FILED: 03/29/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of these changes is to clarify some rule language, to add needed subsections, and to delete some unnecessary subsections, so changes in statute, federal requirements, and rule committee and the Department of Health (Department) decisions can take effect.

SUMMARY OF THE RULE OR CHANGE: These changes will clarify language such as changing the word "screening" to "check", modify the appeal process timing to follow recommendations from the Legislative Auditor's Office, change the requirements for submission of background checks from 10 working days to 0 to follow federal requirements, remove the exceptions for required fingerprinting, and renumber subsections as needed.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 63G, Chapter 3

ANTICIPATED COST OR SAVINGS TO:

♦ **THE STATE BUDGET:** The proposed deletion of the fingerprint exception subsection is expected to have a one-time fiscal impact on the state government revenues because 14 out of the 76 current residential certificate providers will now have to submit fingerprints. The estimated number of covered individuals in these facilities (as reported in our records) who will have to pay the cost of the fingerprints is 45. The individual cost for a fingerprint is \$37. The expected revenues are a one-time event, and that is why there are no additional costs or benefits in the following years. The Department does not anticipate any additional costs or savings due to the other proposed rule changes.

♦ **LOCAL GOVERNMENTS:** These proposed changes are not expected to have any fiscal impact on local governments' revenues or expenditures because there are no residential certificate providers operated by local governments to whom these changes will affect.

♦ **SMALL BUSINESSES:** Only the deletion of the fingerprint exception subsection is expected to have some fiscal impact on small businesses' expenditures because there are 14 residential certificate providers that operate as small business to whom the requirement for fingerprints will directly affect. The estimated number of covered individuals in these facilities (as reported in our records) who will have to pay the cost of the fingerprints is 45. The individual cost for a fingerprint is \$37. All other residential certificate providers have already complied with this requirement, but will continue to submit and pay for fingerprints for all new covered individuals. However, there is no way to estimate if there are going to be any additional covered individuals added to the current residential certificate providers. The Department does not anticipate any additional costs or savings due to the other proposed rule changes.

♦ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These proposed rule changes are not expected to have any fiscal impact on other individuals' revenues or expenditures because only a group of small businesses will be affected by the changes. Currently, there are no persons that are not small businesses to whom these changes will apply.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since fingerprints will be required of any residential certificate provider, all new applicants for a residential certificate will be

required to pay for fingerprints, with no exceptions, if they have not already done so. The Department cannot project the number of new applicants, but the number of residential certificate providers has steadily decreased for the past five years.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: The changes clarify language such as changing the word "screening" to "check", modify the appeal process timing to follow recommendations from the Legislative Auditor's Office, change the requirements for submission of background checks from 10 working days to 0 to follow federal requirements, remove the exceptions for required fingerprinting, and renumber subsections as needed. There is a one-time fiscal impact on small businesses for the cost of submitting fingerprints. There are 14 residential certificate child care providers with an estimated 45 individuals who will be required to submit fingerprints at a cost of \$37 per person. The minimal cost of the fingerprint process is balanced out by the need conduct background checks for the health and safety of children receiving care in the affected residences.

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 05/15/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/28/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$1,665	\$0	\$0

Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$1,665	\$0	\$0
Fiscal Benefits			
State Government	\$1,665	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$1,665	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

The proposed amendment is not expected to have any fiscal impact on large businesses revenues or expenditures because all businesses in the child care industry (NAICS 624410) in Utah are either center licensed or center licensed exempt and not residential certificate providers. All residential certificate providers are small businesses.

Department Head Comments:

The changes clarify language such as changing the word "screening" to "check", modify the appeal process timing to follow recommendations from the Legislative Auditor's Office, change the requirements for submission of background checks from 10 working days to 0 to follow federal requirements, remove the exceptions for required fingerprinting, and renumber subsections as needed.

There is a one-time fiscal impact on small businesses for the cost of submitting fingerprints. There are 14 residential certificate child care providers with an estimated 45 individuals who will be required to submit fingerprints at a cost of \$37 per person.

The minimal cost of the fingerprint process is balanced out by the need conduct background checks for the health and safety of children receiving care in the affected residences.

R430. Health, Family Health and Preparedness, Child Care Licensing.**R430-50. Residential Certificate 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]check~~ that may result in a denial from Child Care Licensing.

(4) "Background ~~[Screening]Check Denial~~" means that an individual has failed the background ~~[screening]check~~ 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) "Business Days/Hours" means the days of the week and times the facility is open for business.

~~_____~~(7)(8) "Capacity" means the maximum number of children for whom care can be provided at any given time.

(8)(9) "Caregiver-to-Child Ratio" means the number of caregivers responsible for a specific number of children.

(9)(10) "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)(11) "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)(12) "Child Care Hours" means the days and times during which the provider is open for business.

(12)(13) "Child Care Program" means a person or business that offers child care.

(13)(14) "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)(15) "Conditional Status" means that the provider is at risk of losing their child care certificate because compliance with licensing rules has not been maintained.

(15)(16) "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)(17) "CPSC" means the Consumer Product Safety Commission.

~~[(17)](18)~~ "Department" means the Utah Department of Health.

(18)(19) "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)(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.

(20)(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.

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

(22)(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.

(23)(24) "Group Size" means the number of children in a group.

(24)(25) "Guest" means an individual who is not a covered individual and is on the premises with the provider's permission.

(25)(26) "Health Care Provider" means a licensed health professional, such as a physician, dentist, nurse practitioner, or physician's assistant.

(26)(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)

(27)(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.

(28)(29) "Infant" means a child who is younger than 12 months of age.

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

(30)(31) "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)(32) "LIS Supported Finding" means background ~~[screening]check~~ information from the Licensing Information System

(LIS) database for child abuse and neglect, maintained by the Utah Department of Human Services.

~~[(32)]~~(33) "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)]~~(34) "Over-the-Counter Medication" means medication that can be purchased without a written prescription including herbal remedies, vitamins, and mineral supplements.

~~[(34)]~~(35) "Parent" means the parent or legal guardian of a child in care.

~~[(35)]~~(36) "Person" means an individual or a business entity.

~~[(36)]~~(37) "Physical Abuse" means causing nonaccidental physical harm to a child.

~~[(37)]~~(38) "Preschooler" means a child age 2 through 4 years old.

~~[(38)]~~(39) "Provider" means the legally responsible person or business that holds a valid certificate from Child Care Licensing.

~~[(39)]~~(40) "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)]~~(41) "Residential Child Care" means care that takes place in a child care provider's home.

~~[(41)]~~(42) "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)]~~(43) "Sanitize" means to use a chemical product to remove soil and bacteria from a surface or object.

~~[(43)]~~(44) "School-Age Child" means a child age 5 through 12 years old.

~~[(44)]~~(45) "Sexual Abuse" means abuse as defined in Utah Code, Title 76-5-404(1).

~~[(45)]~~(46) "Sexually Explicit Material" means any depiction of sexually explicit conduct as defined in Utah Code, Title 76-5b-103(10).

~~[(46)]~~(47) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.

~~[(47)]~~(48) "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)]~~(49) "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)]~~(50) "Substitute" means a person who assumes a caregiver's duties when the caregiver is not present.

~~[(50)]~~(51) "Toddler" means a child age 12 through 23 months.

~~[(51)]~~(52) "Unrelated Child" means a child who is not a "related child" as defined in R430-50-2(41).

~~[(52)]~~(53) "Unsupervised Contact" means being with, caring for, communicating with, or touching a child in the absence of a caregiver or other employee who is at least 18 years old and has passed a Child Care Licensing background ~~[screening]~~check.

~~[(53)]~~(54) "Use Zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.

~~[(54)]~~(55) "Volunteer" means an individual who receives no form of direct or indirect compensation for their service.

~~[(55)]~~(56) "Working Days" means the days of the week the Department is open for business.

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]~~checks 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)]~~(e) 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)]~~(f) there shall be working smoke detectors that are properly installed on each level of the building; and

~~[(h)]~~(g) 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~~ checks, civil money penalties, and other fees assessed by the Department.

(15) An applicant or provider may appeal any Department decision within ~~30~~ 15 working days of being informed in writing 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~~ check;

(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:~~

~~(a) have liability insurance, or~~

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

~~(9)~~ (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.

~~(10)~~ (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.

~~(11)~~(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.

~~(12)~~(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.

~~(13)~~(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.

~~(14)~~(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.

~~(15)~~(16) 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~~ensure that all employees and volunteers ~~to ensure that they are qualified~~are supervised, qualified, and trained 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~~check;

(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~~check;

(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~~check,

(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~~;~~ and

(d) not have unsupervised contact with any child in care if the employee is younger than 16 years of age.

(6) Volunteers shall:

(a) pass a CCL background ~~screening~~check, 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~~check 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~~check.

(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~~check 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~~check;

(b) 18 years of age or older shall pass a CCL background ~~screening~~check 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~~check 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]check, 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.](19) Documentation of current first aid and CPR certification for each covered individual required by rule to have it shall be kept on-site for review by the Department.~~

R430-50-8. Background [Screenings]Checks.

~~[(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.](1) Before a new covered individual becomes involved with child care in the program, the provider shall:~~

~~_____ (a) have the individual submit an online background check form.~~

~~_____ (b) authorize the individual's background check form.~~

~~_____ (c) pay all required fees, and~~

~~_____ (d) receive written notice from CCL that the individual passed the background check.~~

~~_____ (2) The provider shall ensure that an online background check form is submitted and authorized, and that background check fees are paid within 10 working days from when a child who resides in the facility turns 12 years old.~~

~~[(2)](3) [Unless an exception is granted in rule, t]The provider shall ensure that a CCL background [screening]check for each individual age 18 years or older includes fingerprints and fingerprints fees.~~

~~[(3)](4) The fingerprints shall be prepared by a local law enforcement agency or an agency approved by local law enforcement.~~

~~[(4)](5) 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) Fingerprints are not required if the covered individual has:~~

~~_____ (a) previously submitted fingerprints to CCL for a Next Generation, national criminal history check;~~

~~_____ (b) resided in Utah continuously since the fingerprints were submitted; and~~

~~_____ (c) kept their CCL background check current.~~

~~[(6)](7) Background [screenings]checks are valid for 1 year and shall be renewed before the last day of the month listed on the covered individual's background [screening]check card.~~

~~[(7)](8) At least 2 weeks before the end of the renewal month that is written on a covered individual's background [screening]check card, the provider shall:~~

~~(a) have the individual submit an online CCL background [screening]check form and fingerprints if not previously submitted,~~

(b) authorize the individual's background ~~[screening]~~check form ~~through the provider portal~~, 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]~~check denial:

(a) unlawful sale or furnishing alcohol to minors;

(b) sexual enticement 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]~~check was conducted.

(15) The Department may rely on the criminal background ~~[screening]~~check 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]~~check denial, the Department may suspend or deny their certificate until the reason for the denial is resolved.

(17) A covered individual ~~[has a background screening denial]~~fails to pass a CCL background check, ~~including that the individual has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, the [Department may]~~provider shall 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]~~check 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]~~check denial ~~[under the following conditions:~~

~~_____ (a) the background finding is not a felony, and~~

~~_____ (b)]when~~ the Executive Director determines that the nature of the background finding or mitigating circumstances do not pose a risk to children.

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.](2) Poisonous and harmful plants shall be inaccessible to children.~~

~~(3) Sharp objects, edges, corners, or points that could cut or puncture skin shall be inaccessible to children.~~

~~(4) Choking hazards shall be inaccessible to children to children younger than 3 years of age.~~

~~(5) Strangulation hazards such as ropes, cords, chains, and wires attached to a structure and long enough to encircle a child's neck shall be inaccessible to children.~~

~~(6) Tripping hazards such as unsecured flooring, rugs with curled edges, or cords in walkways shall be inaccessible to children.~~

~~(7) 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 shall be inaccessible to children.~~

~~(8) Standing water that measures 2 inches or deeper and 5 by 5 inches or greater in diameter shall be inaccessible to children.~~

~~[(3)](9) 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)](10) 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)](11) 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)](12) 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)](13) Weapons such as paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace shall be inaccessible to children.~~

~~[(8)](14) 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)](15) 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)](16) 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)](17) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.~~

~~[(12)](18) Highchairs shall have T-shaped safety straps or devices that are used whenever a child is in the chair.~~

~~[(13)](19) Infant walkers with wheels shall be inaccessible to children.~~

~~[(14)](20) 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 unless otherwise instructed by emergency personnel.

(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]check~~; 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, pillow[s] covers, 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.

R430-50-18. 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, the children's primary screen time activity 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 planned to address 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]supplies, including at least antiseptic, band-aids, and tweezers 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.

R430-50-19. 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)](6) There shall be no heavy metal swings, such as animal-shaped swings, accessible to children.~~

~~[(7)](7) Cushioning for stationary play equipment shall cover the entire surface of each required use zone.~~

~~[(8)](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)](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)](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)](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)](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)](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)](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)](12).~~

~~[(45)](14)~~ 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.

~~[(46)](15)~~ An accessible trampoline shall have shock-absorbing pads that completely cover its springs, hooks, and frame.

~~[(47)](16)~~ 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.

~~[(48)](17)~~ 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~~[-]~~, and
- (e) only school age children in care shall be allowed to use the trampoline.

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, and
 - (e) contain [a-]first aid [kit,]supplies, including at least antiseptic, band-aids, and tweezers.[-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.

R430-50-24. 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.

(17) Soft toys, loose blankets, or other objects shall not be placed in cribs while in use by sleeping infants.

KEY: child care facilities, residential certification
Date of Enactment or Last Substantive Amendment: [December 28, 2017]2018
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.: 42733
 FILED: 03/29/2018**

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of these changes is to clarify some rule language, to add needed subsections, and to delete some unnecessary subsections, so changes in statute, federal requirements, and Rule Committee (Committee) and Department of Health (Department) decisions can take effect.

SUMMARY OF THE RULE OR CHANGE: These changes will clarify language such as changing the word "screening" to

"check", modify the appeal process timing to follow recommendations from the Legislative Auditor's Office, change the requirements for submission of background checks from 10 working days to 0 to follow federal requirements, remove the exceptions for required fingerprinting, and renumber subsections as needed.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 63G, Chapter 3

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** The proposed deletion of the fingerprint exception subsection is expected to have a one-time fiscal impact on the state government revenues because 21 out of the 773 currently licensed families will now have to submit fingerprints. The estimated number of covered individuals in these facilities (as reported in our records) who will have to pay the cost of the fingerprints is 57. The individual cost for a fingerprint is \$37. The expected revenues are a one-time event, and that is why there are no additional costs or benefits in the following years. The Department does not anticipate any additional costs or savings due to the other proposed rule changes.

◆ **LOCAL GOVERNMENTS:** These proposed changes are not expected to have any fiscal impact on local governments' revenues or expenditures because there are no licensed families operated by local governments to whom these changes will affect.

◆ **SMALL BUSINESSES:** These rule changes are expected to have some fiscal impact on small businesses expenditures because there are 57 licensed homes that operate as small businesses to whom the requirement for fingerprints will directly affect. The estimated number of covered individuals in these facilities (as reported in our records) who will have to pay the cost of the fingerprints is 57. The individual cost for a fingerprint is \$37. All other licensed families have already complied with this requirement, but will continue to submit and pay for fingerprints for all newly covered individuals. However, there is no way to estimate if there are going to be any additional covered individuals added to the current licensed families. The Department does not anticipate any additional costs or savings due to the other proposed rule changes.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** These proposed rule changes are not expected to have any fiscal impact on other individuals' revenues or expenditures because only a group of small businesses will be affected by these changes. Currently, there are no persons that are not small businesses to whom these changes will apply.

COMPLIANCE COSTS FOR AFFECTED PERSONS: Since fingerprints will be required of any licensed family provider, all new applicants for a family license will be required to pay for fingerprints, with no exceptions, if they have not already done so. The Department cannot project the number of new applicants, but the number of family providers has steadily decreased for the past five years.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: These changes clarify language such as changing the word "screening" to "check", modify the appeal process timing to follow recommendations from the Legislative Auditor's Office, change the requirements for submission of background checks from 10 working days to 0 to follow federal requirements, remove the exceptions for required fingerprinting, and renumber subsections as needed. There is a one-time fiscal impact on small businesses for the cost of submitting fingerprints. There are an estimated 21 individuals in licensed families who will be required to submit fingerprints at a cost of \$37 per person. These individuals are in addition to individuals who are already required to be licensed. The minimal cost of the fingerprint process is balanced out by the need conduct background checks for the health and safety of children receiving care by the affected providers.

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 05/15/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/28/2018

AUTHORIZED BY: Joseph Miner, MD, Executive Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$2,109	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$2,109	\$0	\$0

Fiscal Benefits				
State Government	\$2,109	\$0	\$0	
Local Government	\$0	\$0	\$0	
Small Businesses	\$0	\$0	\$0	
Non-Small Businesses	\$0	\$0	\$0	
Other Persons	\$0	\$0	\$0	
Total Fiscal Benefits:	\$2,109	\$0	\$0	
Net Fiscal Benefits:	\$0	\$0	\$0	

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

The proposed amendment is not expected to have any fiscal impact on large businesses revenues or expenditures because all businesses in the child care industry (NAICS 624410) in Utah are either center licensed or center licensed exempt and not licensed families. All licensed families are small businesses.

Department Head Comments:

The changes clarify language such as changing the word "screening" to "check", modify the appeal process timing to follow recommendations from the Legislative Auditor's Office, change the requirements for submission of background checks from 10 working days to 0 to follow federal requirements, remove the exceptions for required fingerprinting, and renumber subsections as needed.

There is a one-time fiscal impact on small businesses for the cost of submitting fingerprints. There are an estimated 21 individuals in licensed families who will be required to submit fingerprints at a cost of \$37 per person. These individuals are in addition to individuals who are already required to be licensed.

The minimal cost of the fingerprint process is balanced out by the need conduct background checks for the health and safety of children receiving care in the affected providers.

R430. Health, Family Health and Preparedness, Child Care Licensing.

R430-90. Licensed Family 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]~~check that may result in a denial from Child Care Licensing.

(4) "Background ~~[screening]~~Check Denial" means that an individual has failed the background ~~[screening]~~check 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) "Business Days/Hours" means the days of the week and times the facility is open for business.

~~(7)~~(8) "Capacity" means the maximum number of children for whom care can be provided at any given time.

~~(8)~~(9) "Caregiver-to-Child Ratio" means the number of caregivers responsible for a specific number of children.

~~(9)~~(10) "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)~~(11) "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)~~(12) "Child Care Hours" means the days and times during which the provider is open for business.

~~(12)~~(13) "Child Care Program" means a person or business that offers child care.

~~(13)~~(14) "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)~~(15) "Conditional Status" means that the provider is at risk of losing their child care license because compliance with licensing rules has not been maintained.

~~(15)~~(16) "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)~~(17) "CPSC" means the Consumer Product Safety Commission.

~~(17)~~(18) "Department" means the Utah Department of Health.

~~(18)~~(19) "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)~~(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.

~~(20)~~(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.

~~(21)~~(22) "Facility" means a child care program or the premises approved by the Department to be used for child care.

~~(22)~~(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.

~~(23)~~(24) "Group Size" means the number of children in a group.

~~(24)~~(25) "Guest" means an individual who is not a covered individual and is on the premises with the provider's permission.

~~(25)~~(26) "Health Care Provider" means a licensed health professional, such as a physician, dentist, nurse practitioner, or physician's assistant.

~~(26)~~(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)

~~(27)~~(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.

~~(28)~~(29) "Infant" means a child who is younger than 12 months of age.

~~(29)~~(30) "Infectious Disease" means an illness that is capable of being spread from one person to another.

~~(30)~~(31) "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)~~(32) "License" means a license issued by the Department to provide child care services.

~~(32)~~(33) "Licensee" means the legally responsible person or business that holds a valid license from Child Care Licensing.

~~(33)~~(34) "LIS Supported Finding" means background ~~[screening]~~check information from the Licensing Information System (LIS) database for child abuse and neglect, maintained by the Utah Department of Human Services.

~~(34)~~(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).

~~(35)~~(36) "Over-the-Counter Medication" means medication that can be purchased without a written prescription including herbal remedies, vitamins, and mineral supplements.

~~(36)~~(37) "Parent" means the parent or legal guardian of a child in care.

~~(37)~~(38) "Person" means an individual or a business entity.

~~(38)~~(39) "Physical Abuse" means causing nonaccidental physical harm to a child.

~~(39)~~(40) "Preschooler" means a child age 2 through 4 years old.

~~(40)~~(41) "Provider" means the legally responsible person or business that holds a valid license from Child Care Licensing.

~~(41)~~(42) "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)~~(43) "Residential Child Care" means care that takes place in a child care provider's home.

~~(43)~~(44) "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)~~(45) "Sanitize" means to use a chemical product to remove soil and bacteria from a surface or object.

~~(45)~~(46) "School-Age Child" means a child age 5 through 12 years old.

~~(46)~~(47) "Sexual Abuse" means abuse as defined in Utah Code, Title 76-5-404(1).

~~(47)~~(48) "Sexually Explicit Material" means any depiction of sexually explicit conduct as defined in Utah Code, Title 76-5b-103(10).

~~(48)~~(49) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.

~~(49)~~(50) "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)~~(51) "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)~~(52) "Substitute" means a person who assumes a caregiver's duties when the caregiver is not present.

~~(52)~~(53) "Toddler" means a child age 12 through 23 months.

~~(53)~~(54) "Unrelated Child" means a child who is not a "related child" as defined in R430-90-2(43).

~~(54)~~(55) "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~~ check.

~~(55)~~(56) "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)~~(57) "Volunteer" means an individual who receives no form of direct or indirect compensation for their service.

~~(57)~~(58) "Working Days" means the days of the week the Department is open for business.

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~~ checks 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)~~(e) 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)~~(f) there shall be working smoke detectors that are properly installed on each level of the building; and

~~(h)~~(g) 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]~~checks, civil money penalties, and other fees assessed by the Department.

(15) An applicant or provider may appeal any Department decision within ~~[30]~~15 working days of being informed in writing 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]~~check;

(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:~~

~~(a) have liability insurance, or~~

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

~~(9)~~(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.

~~(10)~~(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.
- ~~(11)~~(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.
- ~~(12)~~(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.
- ~~(13)~~(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.
- ~~(14)~~(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.
- ~~(15)~~(16) 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~~ensure that all employees and volunteers [to ensure that they are qualified]are supervised, qualified, and trained 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]check;
 - (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]check;

- (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]check,
 - (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~~[-]~~, and
 - (d) not have unsupervised contact with any child in care if the employee is younger than 16 years of age.
- ~~(6)~~Volunteers shall:
- (a) pass a CCL background [screening]check, 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]check 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]check.
- (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]check 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]check;
 - (b) 18 years of age or older shall pass a CCL background [screening]check 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]check 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]check, 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;~~

~~_____ (e)](b) a current first aid and CPR certification, if required in rule; and~~

~~[(d)](c) a six-week record of the times worked each day.~~

R430-90-8. Background [Screenings]Checks.

~~[(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.](1) Before a new covered individual becomes involved with child care in the program, the provider shall:~~

~~_____ (a) have the individual submit an online background check form.~~

~~_____ (b) authorize the individual's background check form.~~

~~_____ (c) pay all required fees, and~~

~~_____ (d) receive written notice from CCL that the individual passed the background check.~~

~~_____ (2) The provider shall ensure that an online background check form is submitted and authorized, and that background check fees are paid within 10 working days from when a child who resides in the facility turns 12 years old.~~

~~[(2)](3) [Unless an exception is granted in rule, t]The provider shall ensure that a CCL background [screening]check for each individual age 18 years or older includes fingerprints and fingerprints fees.~~

~~[(3)](4) The fingerprints shall be prepared by a local law enforcement agency or an agency approved by local law enforcement.~~

~~[(4)](5) 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) Fingerprints are not required if the covered individual has:~~

~~_____ (a) previously submitted fingerprints to CCL for a Next Generation, national criminal history check;~~

~~_____ (b) resided in Utah continuously since the fingerprints were submitted; and~~

~~_____ (c) kept their CCL background check current.~~

~~[(6)](7) Background [screenings]checks are valid for 1 year and shall be renewed before the last day of the month listed on the covered individual's background [screening]check card.~~

~~(7)~~(8) At least 2 weeks before the end of the renewal month that is written on a covered individual's background screening check card, the provider shall:

(a) have the individual submit an online CCL background screening check form and fingerprints if not previously submitted,

(b) authorize the individual's background screening check form through the provider portal, 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 check 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 check was conducted.

(15) The Department may rely on the criminal background screening check 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 check 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~~ fails to pass a CCL background check, including that the individual has been convicted, has pleaded no contest, or is currently subject to a plea in abeyance or diversion agreement for a felony or misdemeanor, the ~~Department may~~ provider shall 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 check 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 check denial ~~under the following conditions:~~

~~(a) the background finding is not a felony, and~~

~~(b) when the Executive Director determines that the nature of the background finding or mitigating circumstances do not pose a risk to children.~~

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.](2) Poisonous and harmful plants shall be inaccessible to children.~~

~~(3) Sharp objects, edges, corners, or points that could cut or puncture skin shall be inaccessible to children.~~

~~(4) Choking hazards shall be inaccessible to children to children younger than 3 years of age.~~

~~(5) Strangulation hazards such as ropes, cords, chains, and wires attached to a structure and long enough to encircle a child's neck shall be inaccessible to children.~~

~~(6) Tripping hazards such as unsecured flooring, rugs with curled edges, or cords in walkways shall be inaccessible to children.~~

~~(7) 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 shall be inaccessible to children.~~

~~(8) Standing water that measures 2 inches or deeper and 5 by 5 inches or greater in diameter shall be inaccessible to children.~~

~~(9) 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.~~

~~(10) 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.~~

~~(11) 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.~~

~~(12) 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.~~

~~(13) Weapons such as paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace shall be inaccessible to children.~~

~~(14) 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.~~

~~(15) 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.~~

~~(16) 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.~~

~~(17) Hot water accessible to children shall not exceed 120 degrees Fahrenheit.~~

~~(18) Highchairs shall have T-shaped safety straps or devices that are used whenever a child is in the chair.~~

~~(19) Infant walkers with wheels shall be inaccessible to children.~~

~~(20) 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 unless otherwise instructed by emergency personnel.

(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]check~~; 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, pillow[s] covers, 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.

R430-90-18. 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, the children's primary screen time activity 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]~~ planned to address 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]~~ supplies, including at least antiseptic, band-aids, and tweezers 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)](6) Cushioning for stationary play equipment shall cover the entire surface of each required use zone.~~

~~[(8)](7) 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)](8) 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)](9) 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)](10) 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)](11) 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)](12) 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)](13) 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)]~~12.~~

~~[(15)](14) 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)](15) An accessible trampoline shall have shock-absorbing pads that completely cover its springs, hooks, and frame.~~

~~[(17)](16) 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)](17) 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~~[-], and~~

(e) only school age children in care shall be allowed to use the trampoline.

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, and

(e) contain [a] first aid [kit,]supplies, including at least antiseptic, band-aids, and tweezers. [-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.

R430-90-24. 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.

(17) Soft toys, loose blankets, or other objects shall not be placed in cribs while in use by sleeping infants.

KEY: child care facilities, licensed family child care

Date of Enactment or Last Substantive Amendment: ~~December 28, 2017~~ 2018

Notice of Continuation: May 29, 2013

Authorizing, and Implemented or Interpreted Law: 26-39

**Insurance, Title and Escrow
Commission
R592-7**

**Title Insurance Continuing Education
Program**

NOTICE OF PROPOSED RULE

(Repeal and Reenact)

DAR FILE NO.: 42711

FILED: 03/20/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The amendments to this rule are being made at the direction of the Title and Escrow Commission by a vote of 4 to 1.

SUMMARY OF THE RULE OR CHANGE: This rule is being amended to make a number of changes to continuing education (CE) requirements for the title insurance industry. It fully delegates authority from the Title and Escrow Commission to the Insurance Commissioner for approving CE courses, rather than granting provisional approval. It sets requirements for what types of CE can be accepted for renewal of a title insurance producer license. It allows all CE hours to be obtained through one or more insurers. It

removes references to approving a title CE provider, reflecting current business practices. It also adds two new definitions and makes a number of clean-up changes for grammar and clarity.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Subsection 31A-2-404(2)(a)(iii)

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** There is no anticipated cost or savings to the state budget. The Insurance Department (Department) has been provisionally approving CE for the Title and Escrow Commission. These changes will have no bearing on how the Department conducts its business.

◆ **LOCAL GOVERNMENTS:** There is no anticipated cost or savings to local governments. These changes govern the relationship between the Department and its title insurance licensees.

◆ **SMALL BUSINESSES:** Some small businesses may see costs or savings. There are 43 CE providers that charge for CE courses taught in Utah. These providers may see a reduction in earnings due to this rule. It is not known what the magnitude of this cost would be because the Department cannot determine the number of courses each provider teaches, nor does the Department track how much they charge for classes. Conversely, the 496 agencies that pay for CE courses may see savings because agents can now get all of their CE training from title insurance companies, which generally do not charge for training.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** The state's 2,074 individual title insurance licensees will likely see some savings, if they choose to take free CE courses from a title insurer, rather than from a CE provider that charges for training. The 43 CE providers in Utah, many of which are sole proprietors, may see a reduction in earnings if agents choose to take free CE courses from a title insurer.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for any affected persons.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:
I. WHETHER A FISCAL IMPACT TO BUSINESS IS EXPECTED AS A RESULT OF THE PROPOSED RULE AND, IF SO, A DESCRIPTION OF WHY: Some small businesses may be impacted. CE providers that charge for training may see a reduction in earnings due to this rule. Independent agents and agencies that pay for CE courses may see savings because agents can now get all of their CE training from title insurance companies, which generally do not charge for training.
II. AN ESTIMATE OF THE TOTAL NUMBER OF BUSINESS ESTABLISHMENTS IN UTAH EXPECTED TO BE IMPACTED: There are an estimated 43 CE providers that charge for training in Utah, and an estimated 496 title insurance agencies in Utah, according to Department data.
III. AN ESTIMATE OF THE SMALL BUSINESS ESTABLISHMENTS IN UTAH EXPECTED TO BE IMPACTED: The 43 CE providers that charge for training in

Utah may see a reduction in earnings due to this rule. It is not known what the magnitude of this cost would be because the Department cannot determine the number of courses each provider teaches, nor does the Department track how much they charge for classes. Conversely, the 496 agencies that pay for CE courses may see savings because agents can now get all of their CE training from title insurance companies, which generally do not charge for training.
IV. A DESCRIPTION OF THE SOURCES OF COST OR SAVINGS AS WELL AS THE EXPECTED NET SAVINGS OR COST TO BUSINESS ESTABLISHMENTS AND SMALL BUSINESS ESTABLISHMENTS AS A RESULT OF THE PROPOSED RULE OVER A ONE-YEAR PERIOD, IDENTIFYING ONE-TIME AND ONGOING COSTS: It is not known what the magnitude of this cost would be because the Department cannot determine the number of courses each provider teaches, nor does the Department track how much they charge for classes. The Department is also unable to determine if title producers will change the manner in which they currently obtain CE. It is assumed that the 43 CE providers who charge for training will face the largest impact, as agents will now have more ability to get free CE training. The 496 agencies may see savings if they choose to attend free CE trainings presented by title insurers.
V. DEPARTMENT HEAD'S COMMENTS ON THE ANALYSIS: The above in-depth fiscal analysis represents the Department's best estimate of the fiscal impact this rule will have on businesses in Utah.

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

INSURANCE
 TITLE AND ESCROW COMMISSION
 ROOM 3110 STATE OFFICE BLDG
 450 N MAIN ST
 SALT LAKE CITY, UT 84114-1201
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ◆ Steve Gooch by phone at 801-538-3803, by FAX at 801-538-3829, or by Internet E-mail at sgooch@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/15/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2018

AUTHORIZED BY: Steve Gooch, Information Specialist

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0

Small Businesses	Unknown	Unknown	Unknown
Non-Small Businesses	Unknown	Unknown	Unknown
Other Person	Unknown	Unknown	Unknown
Total Fiscal Costs:	Unknown	Unknown	Unknown
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	Unknown	Unknown	Unknown
Non-Small Businesses	Unknown	Unknown	Unknown
Other Persons	Unknown	Unknown	Unknown
Total Fiscal Benefits:	Unknown	Unknown	Unknown
Net Fiscal Benefits:	Unknown	Unknown	Unknown

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

There are 19 title insurance companies operating in Utah, according to Insurance Department (Department)licensing records. These businesses may experience a fiscal cost associated with continuing education (CE) courses if they choose to increase the number of courses they offer. The Department cannot know which or how many insurers may choose to increase the frequency of their CE courses, nor how much that might cost each business, because those numbers will vary depending on each insurer's decisions. The rule is being amended to allow title insurance producers to obtain all of their required CE training through one or more insurers if they choose. Title insurers may, at their discretion, change the number of CE courses they will provide. The Department cannot estimate the impact of this change on these insurers because it cannot know if insurers will take on additional costs as a result of the rule. Insurers may determine that it makes more business sense to continue operating as usual in the wake of this rule, or they may choose to add staff to increase the number of CE courses they teach. Any change in the way a large business operates after this rule is enacted will be a business decision made by the business.

The head of the Insurance Department, Todd E. Kiser, has reviewed and approved this fiscal analysis.

R592. Insurance, Title and Escrow Commission.

[R592-7. Title Insurance Continuing Education Program:

R592-7-1. Authority:

~~This rule is promulgated pursuant to Subsections 31A-2-404(2)(a) and (g), which direct the Title and Escrow Commission to make rules for the administration of the provisions in this title related to title insurance and the approval of continuing education programs related to title insurance.~~

R592-7-2. Purpose and Scope:

~~(1) The purposes of this rule are to:~~

~~(a) delegate authority from the Commission to the commissioner to provisionally approve continuing education programs related to title insurance; and~~

~~(b) establish procedures for the Commission to approve continuing education programs related to title insurance provisionally approved by the commissioner.~~

~~(2) This rule applies to all title licensees, applicants for a title insurance license, unlicensed persons doing business as a title licensee, and continuing education providers submitting continuing education programs related to title insurance for approval pursuant to 31A-2-404.~~

R592-7-3. Definitions:

~~"Title licensee" has the same meaning as found in Section 31A-2-402(5).~~

R592-7-4. Program Approval:

~~(1) The Commission hereby delegates to the commissioner provisional authority to approve continuing education programs related to title insurance including~~

~~(a) continuing education course providers; and~~

~~(b) continuing education courses.~~

~~(2) The commissioner will report to the Commission on all continuing education programs related to title insurance provisionally approved by the commissioner. This report will include approved:~~

~~(a) continuing education course providers; and~~

~~(b) continuing education courses added to the Department's list of approved continuing education courses.~~

~~(3) The Commission will review the report and~~

~~(a) concur with and thus approve the continuing education course providers and continuing education courses provisionally approved by the commissioner; or~~

~~(b) disapprove the provisionally approved continuing education course providers or continuing education courses.~~

~~(4) If the Commission disapproves a provisionally approved continuing education provider or continuing education course, the commissioner will:~~

~~(a) remove the provider or the course from the Department's approved provider or course list; and~~

~~(b) notify the provider of the disapproval.~~

R592-7-5. Program Submission:

~~(1) Title insurance related continuing education providers shall submit initial and renewal provider approval information to the commissioner in accordance with 31A-23a-202 and R590-142.~~

~~(2) Approved title insurance related continuing education providers shall submit requests for continuing education course approval to the commissioner in accordance with 31A-23a-202 and R590-142.~~

R592-7-6. Penalties.

~~A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under 31A-2-308.~~

R592-7-7. Enforcement Date.

~~The commissioner will begin enforcing this rule upon the rule's effective date.~~

R592-7-8. Severability.

~~If any section, term, or provision of this rule shall be adjudged invalid for any reason, such judgment shall not affect, impair or invalidate any other section, term, or provision of this rule and the remaining sections, terms, and provisions shall be and remain in full force.]~~

R592-7. Title Insurance Continuing Education.

R592-7-1. Authority.

~~This rule is promulgated pursuant to Subsection 31A-2-404(2)(a)(iii), which directs the Title and Escrow Commission to make rules for the administration of the provisions related to continuing education courses related to a title licensee.~~

R592-7-2. Purpose and Scope.

- ~~(1) The purposes of this rule are to:~~
- ~~(a) adopt continuing education requirements for the approval of a continuing education course under 31A-2-404(2)(a)(iii);~~
 - ~~(b) delegate authority from the Commission to the commissioner to approve a continuing education course related to a title licensee; and~~
 - ~~(c) exempt a title licensee from the provisions of R590-142-4(2)(c).~~
- ~~(2) This rule applies to:~~
- ~~(a) a title licensee;~~
 - ~~(b) an unlicensed individual authorized to do business as a title licensee; and~~
 - ~~(d) a continuing education course related to title insurance.~~
- ~~(3) This rule does not apply to an individual who is considered to have met the continuing education requirements pursuant to Subsection 31A-23a-202(3)(b)(iii)(C).~~

R592-7-3. Definitions.

~~The following definitions shall apply for the purpose of this rule.~~

- ~~(1) "Commission" means the Title and Escrow Commission as created under Subsection 31A-2-403(1)(a).~~
- ~~(2) "Continuing education course" means a continuing education course related to title insurance.~~
- ~~(3) "Title licensee" has the same meaning as found in Subsection 31A-2-402(6).~~

R592-7-4. Continuing Education Course and Approval.

~~(1) The Commission hereby delegates to the commissioner the authority to approve a continuing education course under Subsection 31A-2-404(2)(e).~~

~~(2) The commissioner shall rely on the requirements of R590-142, Continuing Education Rule, for the consideration of a request for a continuing education course approval.~~

~~(3) When the commissioner approves a continuing education course, the course:~~

~~(a) is deemed approved by the Commission and has concurrence of the commissioner under Subsection 31A-2-404(2)(e) and this Subsection (1); and~~

~~(b) will be added to the Department's approved course list.~~

~~(4) The commissioner shall provide a report to the Commission on a quarterly basis listing new continuing education courses approved pursuant to this section.~~

~~(5) If the commissioner disapproves a continuing education course, the commissioner shall:~~

~~(a) remove the course from the Department's approved course list; and~~

~~(b) notify the course provider of the disapproved course.~~

R592-7-5. Course Submission.

~~A continuing education provider shall submit to the commissioner a request for approval of a continuing education course in accordance with Section 31A-23a-202 and R590-142.~~

R592-7-6. Licensee Course Requirements.

~~(1) The continuing education credit hours required for the renewal of a title insurance producer license pursuant to Subsections 31A-23a-202(3)(b)(iii)(A) and (B), may only be fulfilled through an approved course that is:~~

~~(a) related to title insurance, escrow, real estate, or ethics; and~~

~~(b) categorized by the commissioner as:~~

- ~~(i) title;~~
- ~~(ii) title ethics; or~~
- ~~(iii) ethics.~~

~~(2)(a) The restrictions set forth in R590-142-4(2)(c) shall not apply to a title licensee.~~

~~(b) A title licensee may obtain all required credit hours through one or more insurers.~~

R592-7-7. Penalties.

~~A person found, after a hearing or other regulatory process, to be in violation of this rule shall be subject to penalties as provided under Section 31A-2-308.~~

R592-7-8. Enforcement Date.

~~The commissioner will begin enforcing this rule upon the rule's effective date.~~

R592-7-9. Severability.

~~If any provision of this rule or its application to any person or situation is held to be invalid, such invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable.~~

KEY: title insurance continuing education

Date of Enactment or Last Substantive Amendment: [June 25, 2009]2018

Notice of Continuation: June 13, 2014

Authorizing, and Implemented or Interpreted Law: 31A-2-308; 31A-2-402; 31A-2-404; 31A-23a-202

**Natural Resources, Parks and
Recreation
R651-103
Electronic Meetings**

NOTICE OF PROPOSED RULE

(New Rule)

DAR FILE NO.: 42723

FILED: 03/27/2018

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule is to establish a process whereby electronic meetings may be held for the Board of Parks and Recreation, the Off-highway Vehicle Advisory Council, the Recreational Trails Advisory Council, and the Boating Advisory Council.

SUMMARY OF THE RULE OR CHANGE: This rule is established under the authority of Section 52-4-207 to provide the standards and procedures for electronic meetings of the Board of Parks and Recreation, the Off-highway Vehicle Advisory Council, the Recreational Trails Advisory Council, and the Boating Advisory Council. Section 52-4-207 authorizes a public body to convene or conduct an electronic meeting provided written procedures are established for such meetings. This rule establishes procedures for conducting Board and Advisory Council meetings by electronic means.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 52-4-207

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** Savings to the state budget would occur when holding an electronic meeting, because the participants and attendees would not have to travel, thus creating a savings in per diem and mileage costs. The aggregate savings to the state budget would depend on how many employees, advisory council members, and board members would be in attendance at their respective meetings. The approximate savings is listed below. It is an estimate, because the location of the meetings and the number of times the meetings are held varies. 1) Parks and Recreation Board Meetings: 9 board members, 2-day meeting/1 hotel night at \$100 (based on highest state rate of hotel cost in the state because the Division does not know where the meetings will be held). $8 \times 100 = 800 \times 4$ meetings per year = total of \$3,200. The meetings are usually held in one of the Board members home areas, so that is why there are 8 rooms and not 9. Nine board members at \$42 (per diem rate for a day), $9 \times \$42 = \378×4 meetings per year =

\$3,024. Three administrative personnel for dinner first night of meeting = $3 \times \$18 = \54×4 meetings per year = \$216. Approximately 15 employees attend meetings from various parts of the state. A lot are from the Salt Lake area or the area the meetings is being held in. If they drive a personal vehicle mileage reimbursement would be approximately: Southwest Region (Cedar City) $1 \times 500.8 \times \$0.40 = \200.32×4 meetings per year = \$801.28. Variable – if uses a state vehicle, no mileage paid; Southeast Region (Moab) 1×467 miles $\times \$0.40 = \186.80×4 meetings per year = \$747.20. Variable – if uses a state vehicle, no mileage is paid; Northern Region (Salt Lake) 1×4 miles roundtrip. If uses a state vehicle, no mileage paid. Meals based on six employees – not all employees are there for lunch/dinner. same with rooms: $6 \times \$100 = \600×4 meetings per year = \$2,400. 6 at \$32 (lunch and dinner per diem) is $6 \times \$32 = \192×4 meetings per year = \$768. 6 at \$42 (all day per diem) for the next day's meeting is $6 \times \$42 = \252×4 meetings per year = \$1,008. $\$768 + \$1008 = \$1,776$. All information is based on the meetings being held in Salt Lake and are based on the highest cost savings. Numbers are approximate. The total is \$12,932.48. 2) Boating Advisory Council Meeting: 9 volunteers, rare that there is a need for hotel rooms, is $9 \times 100 = \$900 \times 1$ hotel room needed per year. 9 at \$32 (lunch and dinner per diem) is $9 \times \$32 = \288×4 meetings per year = \$1,152. The total is \$2,052. 3) OHV and Trails Advisory Councils: 22 volunteers total for both Advisory Councils. No hotel rooms are needed. 22 at lunch per diem = $22 \times \$14 = \308×4 meetings per year = \$1,232. 22 at dinner per diem = $22 \times \$18 = \396×4 meetings per year = \$1,584. The total is \$2,816. The grand total is \$17,800.48.

◆ **LOCAL GOVERNMENTS:** Savings to local governments could occur when electronic meetings were held if attendees were paid per diem or mileage by their respective agencies. The savings is inestimable because it is not known when or if they would attend a meeting. There could also be several agencies with varying amounts of per diem and/or mileage and it would not be known where a meeting was held compared to where the local government agency was located.

◆ **SMALL BUSINESSES:** Savings to the small businesses could occur when electronic meetings were held because they would save on travel costs. Those savings could include hotels, mileage, and/or food. The savings is inestimable because it is not known when or if they would attend a meeting. The mileage would depend on where the meeting was held compared to where the business was located.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Savings to persons other than small businesses, businesses, or local government entities could occur when electronic meetings were held because they would save on travel costs. Those savings could include hotels, mileage, and/or food. The savings is inestimable because it is not known when or if they would attend a meeting. The mileage would depend on where the meeting was held compared to where people were traveling from.

COMPLIANCE COSTS FOR AFFECTED PERSONS: There are no compliance costs for affected persons because holding electronic meetings provide a savings only.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES: There should be no impact on businesses.

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

NATURAL RESOURCES
 PARKS AND RECREATION
 ROOM 116
 1594 W NORTH TEMPLE
 SALT LAKE CITY, UT 84116-3154
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Tammy Wright by phone at 801-538-7359, by FAX at 801-538-7378, or by Internet E-mail at tammywright@utah.gov

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 05/15/2018

THIS RULE MAY BECOME EFFECTIVE ON: 05/22/2018

AUTHORIZED BY: Jeff Rasmussen, Acting Director

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$17,800.48	\$17,800.48	\$17,800.48
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$17,800.48	\$17,800.48	\$17,800.48
Net Fiscal Benefits:	\$17,800.48	\$17,800.48	\$17,800.48

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses
 This proposed new Rule R651-103 is not expected to have any fiscal impacts on large businesses' revenues or expenditures, because there are no services required from them in order to implement the rule.

The head of the Department of Natural Resources, Michael Styler, has reviewed and approved this fiscal analysis.

R651. Natural Resources, Parks and Recreation.

R651-103. Electronic Meetings.

R651-103-1. Purpose and Authority.

This rule is established under the authority of Title 52; Chapter 4; Section 207 to provide the standards and procedures for electronic meetings of the Board of Parks and Recreation; the Off-highway Vehicle Advisory Council; the Recreational Trails Advisory Council and the Boating Advisory Council.

R657-39-2. Definitions.

(1) Terms used in this rule are defined as follows:
 (a) "Anchor location" means the physical location from which:
 (i) An electronic meeting originates; or
 (ii) The participants are connected.
 (b) "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.

R651-103-3. Electronic Meetings.

(1) Section 52-4-207 authorizes a public body to convene or conduct an electronic meeting provided written procedures are established for such meetings. This rule establishes procedures for conducting Board and Advisory Council meetings by electronic means.
 (2) The following provisions govern any meeting at which one or more Board or Advisory Council members appear telephonically or electronically pursuant to Section 52-4-207:
 (a) If one or more members participate in a public meeting electronically or telephonically, public notices of the meeting shall specify:
 (i) The members participating in the meeting electronically and how they will be connected to the meeting;

(ii) The anchor location where interested persons and the public may attend, monitor, and participate in the open portions of the meeting;

(iii) The meeting agenda; and

(iv) The date and time of the meeting.

(b) Written or electronic notice of the meeting and the agenda shall be posted or provided no less than 24 hours prior to the meeting:

(i) At the anchor location;

(ii) On the Utah Public Notice Website; and

(iii) To at least one newspaper of general circulation within the state or to a local media correspondent. These notices shall be provided at least 24 hours before the meetings.

(c) Notice of the possibility of an electronic meeting shall be given to board members at least 24 hours before the meeting. In addition, the notice shall describe how a member may participate in the meeting electronically or telephonically.

(d) When notice is given of the possibility of a board member appearing electronically or telephonically, any board member may do so and shall be counted as present for purposes of a quorum and may fully participate and vote on any matter coming before the board.

(i) At the commencement of the meeting, or at such time as any board member initially appears electronically or telephonically, the chair should identify for the record all those who are appearing telephonically or electronically.

(ii) Votes by members of the board who are not at the physical location of the meeting shall be confirmed by the chair.

(e) The anchor location, unless otherwise designated in the notice, shall be at the offices of the Utah Department of Natural Resources, 1594 West North Temple, Salt Lake City, Utah.

(i) The anchor location is the physical location from which the electronic meeting originates or from which the participants are connected.

(ii) The anchor location shall have space and facilities so that interested persons and the public may attend, monitor, and participate in the open portions of the meeting.

R651-103-4. Board and Council Emergency Meetings.

(1) There are times when, due to the necessity of considering matters of an emergency or urgent nature, the public notice provisions of Section 52-4-202(1) cannot be met. Pursuant to Section 52-4-202(5), the notice requirements in Section 52-4-202(1) may be disregarded when unforeseen circumstances require the board or any of the advisory councils to meet and consider matters of an emergency or urgent nature.

(2) The following procedure shall govern any emergency meeting:

(a) No emergency meeting shall be held unless an attempt has been made to notify all of the members of the board of the proposed meeting and a majority of the convened members vote in the affirmative to hold such an emergency meeting.

(b) Public notice of the emergency meeting shall be provided as soon as practicable and shall include at a minimum the following:

(i) Posting of the date, time, and place of the meeting and the topics to be considered:

(A) At the offices of the division;

(B) On the division's web page; and

(C) At the location where the emergency meeting will be held.

(ii) If members of the board appear electronically or telephonically, notice shall comply with the requirements of R651-103-3 to the extent practicable.

(c) In convening the meeting and voting in the affirmative to hold such an emergency meeting, the board shall affirmatively state and find what unforeseen circumstances have rendered it necessary for the board to hold an emergency meeting to consider matters of an emergency or urgent nature such that the ordinary public notice of meetings provisions of Section 52-4-202 could not be followed.

KEY: electronic meetings, procedures

Date of Enactment or Last Substantive Amendment: May 22, 2018

Authorizing, and Implemented or Interpreted Law: 52-4-207

End of the Notices of Proposed Rules Section

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

Within five years of an administrative rule's original enactment or last five-year review, the agency is required to review the rule. This review is intended to help the agency determine, and to notify the public, that the administrative rule in force is still authorized by statute and necessary. Upon reviewing a rule, an agency may: repeal the rule by filing a **PROPOSED RULE**; continue the rule as it is by filing a **FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION (REVIEW)**; or amend the rule by filing a **PROPOSED RULE** and by filing a **REVIEW**. By filing a **REVIEW**, the agency indicates that the rule is still necessary.

A **REVIEW** is not followed by the rule text. The rule text that is being continued may be found in the online edition of the *Utah Administrative Code* available at <http://www.rules.utah.gov/publicat/code.htm>. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

Agriculture and Food, Plant Industry **R68-14** Quarantine Pertaining to Gypsy Moth - Lymantria Dispar

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42721
FILED: 03/26/2018

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 promulgated under Sections 4-2-102 and 4-35-109, which allows the Department of Agriculture and Food (Department) to make and adopt rules that conform to the regulations to control for insect infestations.

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 by the Department since the last five years review of 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: This rule is necessary for the state to treat areas to prevent the growth of gypsy moths in the state of Utah. This is also necessary to protect the fruit industry in the state of Utah. 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
◆ Robert Hougaard by phone at 801-538-7187, by FAX at 801-538-7189, or by Internet E-mail at rhougaard@utah.gov

AUTHORIZED BY: LuAnn Adams, Commissioner

EFFECTIVE: 03/26/2018

Education, Administration **R277-508** Employment of Substitute Teachers

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42762
FILED: 04/02/2018

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 by Utah Constitution, Article X, Section 3, which vests general control

and supervision of public education in the Board, Subsection 53A-1-402(1)(a) which directs the Board to make rules regarding the qualifications of educators and ancillary personnel providing direct student services, and Subsection 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

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 were 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 continues to be necessary because it establishes eligibility requirements and employment procedures for substitute teachers. 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

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

EFFECTIVE: 04/02/2018

Education, Administration
R277-532

**Local Board Policies for Evaluation of
Non-Licensed Public Education
Employees (Classified Employees)**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42763
FILED: 04/02/2018

**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 by Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board, by Subsection 53A-1-401(3) which permits the Board to adopt rules in accordance with its responsibilities, and by Section 53A-8a-301 which directs the Board to develop rules requiring that school districts evaluate non-licensed public education employees.

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 was 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 continues to be necessary because it directs public school districts to adopt policies for the evaluation, dismissal and compensation of non-licensed public education employees that satisfy the minimum standards of Sections 53A-8a-301 and 302, 53A-8a-501 through 53A-8a-506, and 53A-8a-601. 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

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

EFFECTIVE: 04/02/2018

Education, Administration
R277-746

**Driver Education Programs for Utah
Schools**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42764
FILED: 04/02/2018

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 by Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board, Subsection 53A-13-201(4) which directs the Board to prescribe rules for driver education classes in the public schools and Subsection 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

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 was 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 continues to be necessary because it specifies standards and procedures for local school districts conducting automobile driver 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

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

EFFECTIVE: 04/02/2018

Education, Administration
R277-751
 Special Education Extended School
 Year (ESY)

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 42765
 FILED: 04/02/2018

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 Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board, Subsection 53A-1-402(1)(c) which directs the Board to adopt rules regarding services to students with disabilities and Subsection 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities.

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 was 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 continues to be necessary because it specifies the standards for the special education extended school year. 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

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

EFFECTIVE: 04/02/2018

Environmental Quality, Water Quality
R317-101
 Utah Wastewater Project Assistance
 Program

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
 DAR FILE NO.: 42705
 FILED: 03/20/2018

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

CONCISE EXPLANATION OF THE PARTICULAR STATUTORY PROVISIONS UNDER WHICH THE RULE IS ENACTED AND HOW THESE PROVISIONS AUTHORIZE OR REQUIRE THE RULE: Subsection 19-5-104(1)(a) authorizes the Utah Water Quality Board (Board) to adopt rules to implement awarding construction loans to political subdivisions and municipal authorities under Section 11-8-2. Title 73, Chapter 10c, authorizes the Board to issue wastewater loans, credit enhancement agreements, interest buy-down agreements, and hardship grants.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received either supporting or opposing this rule since the last five-year review. Additionally, this rule has been amended once since the last five-year review. No comments were received during the public comment period for the rule amendment.

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 establishes policies and procedures for implementing the Utah Wastewater Project Assistance Program. This rule also contains definitions, eligibility requirements, application procedures, and prioritization procedures central to the Board's implementation of their statutory charge. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 ENVIRONMENTAL QUALITY
 WATER QUALITY
 THIRD FLOOR
 195 N 1950 W
 SALT LAKE CITY, UT 84116
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Judy Etherington by phone at 801-536-4344, by FAX at 801-536-4301, or by Internet E-mail at jetherington@utah.gov

AUTHORIZED BY: Erica Gaddis, Director

EFFECTIVE: 03/20/2018

Health, Family Health and Preparedness, Emergency Medical Services
R426-6
 Emergency Medical Services Per Capita and Competitive Grant Programs Rules

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42724
 FILED: 03/28/2018

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 26-8a-207(d) states: "The committee shall award the remaining funds as competitive grants for use specifically related to the provision of emergency medical services based upon rules established by the committee." This rule fulfills the statutory requirement.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: No comments have been received.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule provides instruction for the award of the grants to the qualified emergency medical service providers. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 HEALTH
 FAMILY HEALTH AND PREPAREDNESS,
 EMERGENCY MEDICAL SERVICES
 3760 S HIGHLAND DR
 SALT LAKE CITY, UT 84106
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Guy Dansie by phone at 801-273-6671, by FAX at 801-273-4165, or by Internet E-mail at gdansie@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 03/28/2018

Health, Center for Health Data, Vital
Records and Statistics

R436-1

Duties of the Department of Health

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42704
FILED: 03/19/2018

**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 by Section 26-2-3, which outlines the duties of the Department of Health, the state registrar, and rulemaking to carry out these duties.

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 Office of Vital Records and Statistics has not received any written comments since the last five-year review of this rule from interested persons supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should continue because it sets forth the requirements for the state registrar to prescribe vital records forms, prepare and process certificates, and allows for local health officers to serve as local registrars for their designated area.

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

HEALTH
CENTER FOR HEALTH DATA,
VITAL RECORDS AND STATISTICS
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:
♦ Richard Oborn by phone at 801-538-6262, by FAX at 801-538-7012, or by Internet E-mail at roborn@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 03/19/2018

Health, Center for Health Data, Vital
Records and Statistics

R436-2

Infants of Unknown Parentage;
Foundling Registration

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42706
FILED: 03/20/2018

**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 by Section 26-2-6, which authorizes a foundling certificate to be created for an infant of unknown parentage found within the state.

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 Office of Vital Records and Statistics has not received any written comments since the last five-year review of this rule from interested persons supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should continue because it specifies the content of foundling certificates.

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

HEALTH
CENTER FOR HEALTH DATA,
VITAL RECORDS AND STATISTICS
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:
♦ Richard Oborn by phone at 801-538-6262, by FAX at 801-538-7012, or by Internet E-mail at roborn@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 03/20/2018

Health, Center for Health Data, Vital
Records and Statistics

R436-3

Amendment of Vital Records

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42707
FILED: 03/20/2018

**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 by Sections 26-2-7 and 78B-15-302, which require the Department of Health to make rules governing amendments and corrections on any vital records.

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 Office of Vital Records and Statistics has not received any written comments since the last five-year review of this rule from interested persons supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should continue because it sets forth what data fields can be amended, who may request an amendment, and what proofs are required to support such amendment. It also allows a birth mother and biological father to execute a voluntary declaration of paternity.

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

HEALTH
CENTER FOR HEALTH DATA,
VITAL RECORDS AND STATISTICS
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:
♦ Richard Oborn by phone at 801-538-6262, by FAX at 801-538-7012, or by Internet E-mail at roborn@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 03/20/2018

Health, Center for Health Data, Vital
Records and Statistics

R436-4

Delayed Registration of Birth

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42708
FILED: 03/20/2018

**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 by Sections 26-2-8, 26-2-9, 26-2-14.1, and 26-2-14.2, which authorize delayed registration and issuance of birth certificates and stillbirth certificates.

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 Office of Vital Records and Statistics has not received any written comments since the last five-year review of this rule from interested persons supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it specifies the criteria and proofs required to demonstrate an individual was born in Utah or a stillbirth occurred in Utah.

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

HEALTH
CENTER FOR HEALTH DATA,
VITAL RECORDS AND STATISTICS
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:
♦ Richard Oborn by phone at 801-538-6262, by FAX at 801-538-7012, or by Internet E-mail at roborn@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 03/20/2018

Health, Center for Health Data, Vital
Records and Statistics

R436-7

Death Registration

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42713
FILED: 03/21/2018

**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 by Section 26-2-13, which requires a rule describing how a death certificate may be completed when the cause of death has not been determined within a specified timeframe.

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 Office of Vital Records and Statistics has not received any written comments since the last five-year review of this rule from interested persons supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it sets forth how a funeral director may complete the registration of a death certificate when the cause of death has not been determined.

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

HEALTH
CENTER FOR HEALTH DATA,
VITAL RECORDS AND STATISTICS
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:

◆ Richard Oborn by phone at 801-538-6262, by FAX at 801-538-7012, or by Internet E-mail at roborn@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 03/21/2018

Health, Center for Health Data, Vital
Records and Statistics

R436-8

Authorization for Final Disposition of
Deceased Persons

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42709
FILED: 03/20/2018

**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 by Sections 26-2-16 and 26-2-17 which requires a rule for an authorization record pertaining to the receipt, removal, delivery, and final disposition of a dead body or dead fetus. It also allows for a rule about issuance of permits for disinterment and reinterment prior to disinterment of a dead body or dead fetus.

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 Office of Vital Records and Statistics has not received any written comments since the last five-year review of this rule from interested persons supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it sets forth the requirements and authorization for transportation, preservation, and final disposition of a dead body or dead fetus. It specifies the requirements for issuance of permits for disinterment and reinterment.

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

HEALTH
CENTER FOR HEALTH DATA,
VITAL RECORDS AND STATISTICS
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:

◆ Richard Oborn by phone at 801-538-6262, by FAX at 801-538-7012, or by Internet E-mail at roborn@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 03/20/2018

EFFECTIVE: 03/21/2018

Health, Center for Health Data, Vital Records and Statistics

Health, Center for Health Data, Vital Records and Statistics

R436-9

R436-10

Persons and Institutions Required to Keep Monthly Listings of Vital Statistics Events

Birth and Death Certificates

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42712
FILED: 03/21/2018

DAR FILE NO.: 42710
FILED: 03/20/2018

NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

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 by Sections 26-2-16, 26-2-18, and 26-2-23, which require certain facilities to report vital records and events with the Department of Health.

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 by Section 26-2-19 which requires a rule for transmittal and use of certificates by local registrars.

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 Office of Vital Records and Statistics has not received any written comments since the last five-year review of this rule from interested persons supporting or opposing the rule.

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 Office of Vital Records and Statistics has not received any written comments since the last five-year review of this rule from interested persons supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it sets forth the content and submission requirements for the required reports.

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 should be continued because it specifies the requirements for registration of vital events, and transmittal of certificates from the local registrars to the Department of Health.

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

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

HEALTH
CENTER FOR HEALTH DATA,
VITAL RECORDS AND STATISTICS
CANNON HEALTH BLDG
288 N 1460 W
SALT LAKE CITY, UT 84116-3231
or at the Office of Administrative Rules.

HEALTH
CENTER FOR HEALTH DATA,
VITAL RECORDS AND STATISTICS
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:
♦ Richard Oborn by phone at 801-538-6262, by FAX at 801-538-7012, or by Internet E-mail at roborn@utah.gov

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Richard Oborn by phone at 801-538-6262, by FAX at 801-538-7012, or by Internet E-mail at roborn@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 03/20/2018

Health, Center for Health Data, Vital
Records and Statistics
R436-12
Certified Copies of Vital Statistics
Records

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 42714
FILED: 03/21/2018

**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 by Section 26-2-21, which requires the Department of Health to make a rule about qualifications local registrars must meet in order to issue certified copies of vital records.

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 Office of Vital Records and Statistics has not received any written comments since the last five-year review of this rule from interested persons supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because local registrars issue certified copies for their registration districts.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
CENTER FOR HEALTH DATA,
VITAL RECORDS AND STATISTICS
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:
♦ Richard Oborn by phone at 801-538-6262, by FAX at 801-538-7012, or by Internet E-mail at roborn@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 03/21/2018

Health, Center for Health Data, Vital
Records and Statistics
R436-13
Disclosure of Records

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 42715
FILED: 03/21/2018

**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 by Section 26-2-22, which sets forth the requirements applicants must demonstrate before the Department of Health discloses copies of vital records.

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 Office of Vital Records and Statistics has not received any written comments since the last five-year review of this rule from interested persons supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because state and local registrars disclose certified copies of vital records to qualified applicants.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
HEALTH
CENTER FOR HEALTH DATA,
VITAL RECORDS AND STATISTICS
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:
♦ Richard Oborn by phone at 801-538-6262, by FAX at 801-538-7012, or by Internet E-mail at roborn@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 03/21/2018

Health, Center for Health Data, Vital
Records and Statistics

R436-14

Copies of Data From Vital Records

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42716
FILED: 03/21/2018

**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 by Section 26-2-26, which allows for the issuance of certified copies of vital records.

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 Office of Vital Records and Statistics has not received any written comments since the last five-year review of this rule from interested persons supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because state and local registrars issue certified copies of vital records to qualified applicants.

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

HEALTH
CENTER FOR HEALTH DATA,
VITAL RECORDS AND STATISTICS
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:
♦ Richard Oborn by phone at 801-538-6262, by FAX at 801-538-7012, or by Internet E-mail at roborn@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 03/21/2018

Health, Center for Health Data, Vital
Records and Statistics

R436-15

Fees

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42717
FILED: 03/21/2018

**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 by Section 26-1-6, which allows the Department of Health to charge fees for services.

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 Office of Vital Records and Statistics has not received any written comments since the last five-year review of this rule from interested persons supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because state and local registrars require payment of a fee prior to services being performed.

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

HEALTH
CENTER FOR HEALTH DATA,
VITAL RECORDS AND STATISTICS
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:
♦ Richard Oborn by phone at 801-538-6262, by FAX at 801-538-7012, or by Internet E-mail at roborn@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 03/21/2018

Health, Center for Health Data, Vital
Records and Statistics

R436-16

Violation of Rules

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42718
FILED: 03/21/2018

**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 by Sections 26-23-3 through 26-23-8, which sets forth penalties for unlawful activity involving vital records.

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 Office of Vital Records and Statistics has not received any written comments since the last five-year review of this rule from interested persons supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because it specifies applicable penalty provisions in Utah Code.

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

HEALTH
CENTER FOR HEALTH DATA,
VITAL RECORDS AND STATISTICS
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:
♦ Richard Oborn by phone at 801-538-6262, by FAX at 801-538-7012, or by Internet E-mail at roborn@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 03/21/2018

Health, Center for Health Data, Vital
Records and Statistics

R436-17

Review and Approval of Research
Requests

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42719
FILED: 03/21/2018

**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 by Sections 26-2-3 and 26-2-22, which allows the disclosure of vital records for research purposes if the state registrar is satisfied with the researcher's request.

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 Office of Vital Records and Statistics has not received any written comments since the last five-year review of this rule from interested persons supporting or opposing the rule.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This rule should be continued because the Department of Health allows disclosure of vital records for research purposes if the criteria found in this rule is satisfied.

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

HEALTH
CENTER FOR HEALTH DATA,
VITAL RECORDS AND STATISTICS
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:
♦ Richard Oborn by phone at 801-538-6262, by FAX at 801-538-7012, or by Internet E-mail at roborn@utah.gov

AUTHORIZED BY: Joseph Miner, MD, Executive Director

EFFECTIVE: 03/21/2018

Human Services, Administration
R495-881

Health Insurance Portability and
 Accountability Act (HIPAA) Privacy Rule
 Implementation

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 42766
 FILED: 04/02/2018

**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 62A-1-111 authorizes the Department of Human Services to adopt rules, not inconsistent with law, as the department may consider necessary or desirable for providing social services.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have not been any written comments since the last five-year review of 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: This rule is to be continued to implement provisions required by 45 CFR Part 164, subpart E, dealing with the treatment of certain individually identifiable health information held by the Department of Human Services.

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

HUMAN SERVICES
 ADMINISTRATION
 DHS ADMINISTRATIVE OFFICE
 MULTI STATE OFFICE BUILDING
 195 N 1950 W
 SALT LAKE CITY, UT 84116
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Jonah Shaw by phone at 801-538-4225, by FAX at 801-538-3942, or by Internet E-mail at jshaw@utah.gov

AUTHORIZED BY: Ann Williamson, Executive Director

EFFECTIVE: 04/02/2018

Human Services, Recovery Services
R527-920

Mandatory Disbursement to Obligee
 Through Electronic Funds Transfer

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**

DAR FILE NO.: 42720
 FILED: 03/23/2018

**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 62A-11-107 gives the Office of Recovery Services (ORS) the authority to adopt, amend, and enforce rules necessary to carry out its responsibilities under state law. Section 62A-1-111 allows the Department of Human Services (DHS) the authority to adopt rules that DHS considers necessary or desirable. Section 62A-11-704 requires ORS to distribute child support payments by electronic funds transfer. This statute also allows ORS to make rules to allow exceptions to this requirement when the circumstances for requiring distribution by electronic funds transfer would result in an undue hardship to ORS or a person, or it is not likely the distribution would be made on a recurring basis.

SUMMARY OF WRITTEN COMMENTS RECEIVED DURING AND SINCE THE LAST FIVE YEAR REVIEW OF THE RULE FROM INTERESTED PERSONS SUPPORTING OR OPPOSING THE RULE: There have been no comments received since the last five-year review of 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: This rule should be continued because the statutes under which this rule is enacted are still in effect, and this rule is reflected in current policy, practices, and procedures of the Office of Recovery Services/Child Support Services (ORS/CSS). This rule provides information as to when written information regarding electronic funds transfer options will be sent to an obligee on an ORS/CSS case. In addition, this rule provides an obligee with a time frame to provide a response as to his/her preferred method for receiving electronic payments and that ORS/CSS may enroll an obligee in a plan if no response is received. Finally, this rule provides exceptions as to when mandatory disbursements through electronic funds transfer may be appropriate or approved.

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

HUMAN SERVICES
RECOVERY SERVICES
515 E 100 S
SALT LAKE CITY, UT 84102-4211
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Casey Cole by phone at 801-741-7523, by FAX at 801-536-8509, or by Internet E-mail at cacole@utah.gov
♦ Jonah Shaw by phone at 801-538-4225, by FAX at 801-538-3942, or by Internet E-mail at jshaw@utah.gov

AUTHORIZED BY: Liesa Stockdale, Director

EFFECTIVE: 03/23/2018

**Workforce Services, Unemployment
Insurance
R994-201
Definition of Terms in Employment
Security Act**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 42735
FILED: 03/29/2018

**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 35A-1-104 authorizes the Department of Workforce Services (Department) to adopt rules. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Subsection 35A-4-502(1)(b) authorizes the Department to make rules necessary for the administration of the Employment Security Act. This rule is entitled Definition of Terms in Employment Security Act and adopts definitions set by the Department or by statute.

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 during the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: The definitions and acronyms are necessary to assist parties and their representatives in understanding

the words, phrases, and acronyms found elsewhere in the rules. Therefore, this rule should be continued.

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

WORKFORCE SERVICES
UNEMPLOYMENT INSURANCE
140 E 300 S
SALT LAKE CITY, UT 84111-2333
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Nathan White by phone at 801-526-9647, or by Internet E-mail at nwhite@utah.gov

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 03/29/2018

**Workforce Services, Unemployment
Insurance
R994-202
Employing Units**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**
DAR FILE NO.: 42736
FILED: 03/29/2018

**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 35A-1-104 authorizes the Department of Workforce Services (Department) to adopt rules. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Subsection 35A-4-502(1)(b) authorizes the Department to make rules necessary for the administration of the Employment Security Act. Section 35A-4-202 defines an employing unit by reference to a list of various forms of organizations. Those organizations are not themselves defined in the statute. This rule therefore provides a definition for what constitutes each form of organization.

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 during the last five years.

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 define the terms found in the statute so that employers will understand which provisions might apply to various types of legal entities. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
WORKFORCE SERVICES
UNEMPLOYMENT INSURANCE
140 E 300 S
SALT LAKE CITY, UT 84111-2333
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Nathan White by phone at 801-526-9647, or by Internet E-mail at nwhite@utah.gov

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 03/29/2018

**Workforce Services, Unemployment Insurance
R994-208
Wages**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 42737
FILED: 03/29/2018

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 35A-1-104 authorizes the Department of Workforce Services (Department) to adopt rules. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Subsection 35A-4-502(1)(b) authorizes the Department to make rules necessary for the administration of the Employment Security Act. Section 35A-4-208 defines wages for purposes of the Act, but the statutory definition does not fully address every circumstance in which a payment to a worker might arguably constitute a wage. This rule therefore further defines what constitutes wages in harmony with the statute.

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 during the last five years.

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 more fully define the terms found in the statute to assist Department employees and the public in knowing which payments are considered wages for purposes of determining unemployment insurance benefits and contributions. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
WORKFORCE SERVICES
UNEMPLOYMENT INSURANCE
140 E 300 S
SALT LAKE CITY, UT 84111-2333
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
♦ Nathan White by phone at 801-526-9647, or by Internet E-mail at nwhite@utah.gov

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 03/29/2018

**Workforce Services, Unemployment Insurance
R994-306
Charging Benefit Costs to Employers**

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION
DAR FILE NO.: 42738
FILED: 03/29/2018

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 35A-1-104 authorizes the Department of Workforce Services (Department) to adopt rules. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Subsection 35A-4-502(1)(b) authorizes the Department to make rules necessary for the administration of the Employment Security Act. Section 35A-4-306 sets forth the requirements for charging benefit costs to an employer and requires the Department to establish procedures by which employers may contest the charging of benefit costs to them. This rule establishes the procedures for contesting charging decisions as required by the statute.

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 during the last five years.

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 explain when an employer will be charged for benefit costs, how the employer will be notified, and how the employer can protest those charges. Therefore, this rule should be continued.

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

WORKFORCE SERVICES
UNEMPLOYMENT INSURANCE
140 E 300 S
SALT LAKE CITY, UT 84111-2333
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Nathan White by phone at 801-526-9647, or by Internet E-mail at nwhite@utah.gov

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 03/29/2018

Workforce Services, Unemployment Insurance **R994-307**

Social Costs -- Relief of Charges

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42739
FILED: 03/29/2018

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 35A-1-104 authorizes the Department of Workforce Services (Department) to adopt rules. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Subsection 35A-4-502(1)(b) authorizes the Department to make rules necessary for the administration of the Employment Security Act. Section 35A-4-307 defines social costs that may not be charged to base-period employers. This rule sets forth specific applications of the definition of social costs, as well

as the procedure for an employer to request relief of charges under the social cost 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 comments have been received during the last five years.

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 fully explain when an employer will be eligible for relief of charges and when benefit costs can be charged to social costs for contributing employers. Therefore, this rule should be continued.

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

WORKFORCE SERVICES
UNEMPLOYMENT INSURANCE
140 E 300 S
SALT LAKE CITY, UT 84111-2333
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Nathan White by phone at 801-526-9647, or by Internet E-mail at nwhite@utah.gov

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 03/29/2018

Workforce Services, Unemployment Insurance **R994-315** Centralized New Hire Registry Reporting

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

DAR FILE NO.: 42740
FILED: 03/29/2018

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 35A-1-104 authorizes the Department of Workforce Services (Department) to adopt rules. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Subsection 35A-4-502(1)(b) authorizes the Department to make rules

necessary for the administration of the Employment Security Act. 42 U.S.C. 654 requires the State to maintain a database of newly hired or rehired employees for the purpose of ensuring that workers' child support obligations may be met via withholding of unemployment insurance benefits otherwise due to the worker. The Centralized New Hire Registry Act, Section 35A-7-101 et seq., delegates to the Department the duty to establish and maintain a centralized new hire registry database for the purpose of receiving and maintaining information on newly hired or rehired employees. This rule sets forth the Department's standards and procedures for how employers are to report information to the database.

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 during the last five years.

REASONED JUSTIFICATION FOR THE CONTINUATION OF THE RULE, INCLUDING REASONS WHY THE AGENCY DISAGREES WITH COMMENTS IN OPPOSITION TO THE RULE, IF ANY: This new hire registry is mandated by federal and state law and is used to assist in child support and detecting fraud against unemployment benefits. By knowing when individuals have returned to work, the Department can stop benefit payments and protect the trust fund. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 WORKFORCE SERVICES
 UNEMPLOYMENT INSURANCE
 140 E 300 S
 SALT LAKE CITY, UT 84111-2333
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Nathan White by phone at 801-526-9647, or by Internet E-mail at nwhite@utah.gov

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 03/29/2018

**Workforce Services, Unemployment
 Insurance
 R994-403
 Claim for Benefits**

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
 OF CONTINUATION**
 DAR FILE NO.: 42741
 FILED: 03/29/2018

**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 35A-1-104 authorizes the Department of Workforce Services (Department) to adopt rules. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Subsection 35A-4-502(1)(b) authorizes the Department to make rules necessary for the administration of the Employment Security Act. Section 35A-4-403 sets forth the general criteria for workers to be considered eligible to receive unemployment insurance benefits. Subsection 35A-4-403(4) specifically grants the Department authority to make rules to waive or alter certain general criteria also. This rule sets forth criteria for addressing more specific situations related to eligibility for benefits that are not squarely addressed by statute, as well as the circumstances in which certain of the general criteria may be waived or excused.

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 during the last five years.

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 provide claimants, employers, and Department employees with specific information regarding eligibility for benefits, including incorporating case law from the Utah Supreme Court and Court of Appeals interpreting the statutory criteria. Therefore, this rule should be continued.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:
 WORKFORCE SERVICES
 UNEMPLOYMENT INSURANCE
 140 E 300 S
 SALT LAKE CITY, UT 84111-2333
 or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:
 ♦ Nathan White by phone at 801-526-9647, or by Internet E-mail at nwhite@utah.gov

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 03/29/2018

**Workforce Services, Unemployment
Insurance
R994-405**

Ineligibility for Benefits

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42742
FILED: 03/29/2018

**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 35A-1-104 authorizes the Department of Workforce Services (Department) to adopt rules. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Subsection 35A-4-502(1)(b) authorizes the Department to make rules necessary for the administration of the Employment Security Act. Section 35A-4-405 sets forth the general criteria governing when a claimant may be deemed ineligible to receive unemployment insurance benefits. This rule sets forth criteria for addressing more specific situations related to ineligibility for benefits that are not squarely addressed by statute.

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 during the last five years.

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 provide claimants, employers, and Department employees with specific information regarding ineligibility for benefits, including incorporating case law from the Utah Supreme Court and Court of Appeals interpreting the statutory criteria. Therefore, this rule should be continued.

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

WORKFORCE SERVICES
UNEMPLOYMENT INSURANCE
140 E 300 S
SALT LAKE CITY, UT 84111-2333
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

◆ Nathan White by phone at 801-526-9647, or by Internet E-mail at nwhite@utah.gov

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 03/29/2018

**Workforce Services, Unemployment
Insurance
R994-508**

Appeal Procedures

**FIVE-YEAR NOTICE OF REVIEW AND STATEMENT
OF CONTINUATION**

DAR FILE NO.: 42743
FILED: 03/29/2018

**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 35A-1-104 authorizes the Department of Workforce Services (Department) to adopt rules. Subsection 35A-1-104(4) authorizes the Department to establish eligibility standards for its programs. Subsection 35A-4-502(1)(b) authorizes the Department to make rules necessary for the administration of the Employment Security Act. Section 35A-1-303 authorizes the Department to make rules regarding adjudicative procedures. Section 35A-4-508 sets forth the general requirements for the appeal of Department unemployment insurance decisions. This rule provides more specific requirements and procedures for those appeals, including specifying hearing procedures and rules of evidence.

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 during the last five years.

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 provide claimants, employers, and Department employees with specific information regarding the appeals procedure, including the manner of conducting hearings and taking evidence. Therefore, this rule should be continued.

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

WORKFORCE SERVICES
UNEMPLOYMENT INSURANCE
140 E 300 S
SALT LAKE CITY, UT 84111-2333
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

♦ Nathan White by phone at 801-526-9647, or by Internet E-mail at nwhite@utah.gov

AUTHORIZED BY: Jon Pierpont, Executive Director

EFFECTIVE: 03/29/2018

End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF RULE EFFECTIVE DATES

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.

Abbreviations

AMD = Amendment
CPR = Change in Proposed Rule
NEW = New Rule
R&R = Repeal & Reenact
REP = Repeal

Agriculture and Food

Administration
No. 42472 (NEW): R51-6. Agricultural Advisory Board
Electronic Meeting
Published: 02/01/2018
Effective: 03/23/2018

Governor

Criminal and Juvenile Justice (State Commission on)
No. 42337 (AMD): R356-2-10. Evaluation Criteria
Published: 12/15/2017
Effective: 04/02/2018

Health

Disease Control and Prevention, Environmental Services
No. 42516 (R&R): R392-300. Recreation Camp Sanitation
Published: 02/15/2018
Effective: 03/26/2018

No. 42514 (R&R): R392-401. Roadway Rest Stop Sanitation
Published: 02/15/2018
Effective: 03/26/2018

No. 42515 (R&R): R392-502. Hotel, Motel and Resort
Sanitation
Published: 02/15/2018
Effective: 03/26/2018

Family Health and Preparedness, Licensing
No. 42397 (AMD): R432-2-5. Requirements for a Satellite
Service Operation
Published: 01/15/2018
Effective: 03/22/2018

No. 42396 (AMD): R432-2-13. New License Required
Published: 01/15/2018
Effective: 03/22/2018

Family Health and Preparedness, Primary Care and Rural
Health
No. 42334 (NEW): R434-150. Adverse Events from the
Administration of Sedation or Anesthesia; Recording and
Reporting
Published: 12/15/2017
Effective: 04/14/2018

Natural Resources

Administration
No. 42309 (NEW): R634-3. Compensatory Mitigation
Program
Published: 12/01/2017
Effective: 03/26/2018

No. 42309 (CPR): R634-3. Compensatory Mitigation
Program
Published: 02/15/2018
Effective: 03/26/2018

Wildlife Resources

No. 42492 (AMD): R657-33. Taking Bear
Published: 02/15/2018
Effective: 03/26/2018

NOTICES OF RULE EFFECTIVE DATES

No. 42493 (AMD): R657-62. Drawing Application
Procedures
Published: 02/15/2018
Effective: 03/26/2018

Transportation
Motor Carrier
No. 42494 (AMD): R909-1. Safety Regulations for Motor
Carriers
Published: 02/15/2018
Effective: 03/28/2018

End of the Notices of Rule Effective Dates Section

**RULES INDEX
BY AGENCY (CODE NUMBER)
AND
BY KEYWORD (SUBJECT)**

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, 2018 through April 02, 2018. 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 (<https://www.rules.utah.gov/>).

RULES INDEX - BY AGENCY (CODE NUMBER)

ABBREVIATIONS

AMD = Amendment (Proposed Rule)	LNR = Legislative Nonreauthorization
CPR = Change in Proposed Rule	NEW = New Rule (Proposed Rule)
EMR = 120-Day (Emergency) Rule	NSC = Nonsubstantive Rule Change
EXD = Expired Rule	R&R = Repeal and Reenact (Proposed Rule)
EXP = Expedited Rule	REP = Repeal (Proposed Rule)
EXT = Five-Year Review Extension	5YR = Five-Year Notice of Review and Statement of Continuation
GEX = Governor's Extension	

CODE REFERENCE	TITLE	FILE NUMBER	ACTION	EFFECTIVE DATE	BULLETIN ISSUE/PAGE
ADMINISTRATIVE SERVICES					
<u>Facilities Construction and Management</u>					
R23-5	Contingency Funds	42347	AMD	01/23/2018	2017-24/8
R23-9	Cooperation with Local Government Planning	42348	AMD	01/23/2018	2017-24/9
<u>Finance</u>					
R25-5	Payment of Meeting Compensation (Per Diem) to Boards	42570	5YR	02/08/2018	2018-5/141
R25-6	Relocation Reimbursement	42571	5YR	02/08/2018	2018-5/141
R25-7	Travel-Related Reimbursements for State Employees	42572	5YR	02/08/2018	2018-5/142
R25-8	Overtime Meal Allowance	42573	5YR	02/08/2018	2018-5/142
AGRICULTURE AND FOOD					
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R51-6	Agricultural Advisory Board Electronic Meeting	42472	NEW	03/23/2018	2018-3/4
<u>Plant Industry</u>					
R68-5	Grain Inspection	42530	5YR	01/30/2018	2018-4/95
R68-5	Grain Inspection	42531	NSC	02/27/2018	Not Printed
R68-14	Quarantine Pertaining to Gypsy Moth - Lymantria Dispar	42721	5YR	03/26/2018	Not Printed
<u>Regulatory Services</u>					
R70-940	Standards and Testing of Motor Fuel	42422	R&R	02/22/2018	2018-2/6
ATTORNEY GENERAL					
<u>Administration</u>					
R105-2	Records Access and Management	42367	AMD	02/07/2018	2018-1/2
COMMERCE					
<u>Occupational and Professional Licensing</u>					
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R156-31b	Nurse Practice Act Rule	42448	5YR	01/08/2018	2018-3/69
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R156-55b-102	Definitions	42429	NSC	01/18/2018	Not Printed
R156-68	Utah Osteopathic Medical Practice Act Rule	42447	5YR	01/08/2018	2018-3/70
R156-72	Acupuncture Licensing Act Rule	42338	AMD	01/23/2018	2017-24/11
R156-78-502	Unprofessional Conduct	42243	AMD	01/02/2018	2017-22/28

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 R277-490 Beverley Taylor Sorenson Elementary Arts Learning Program (BTSALP) 42471 5YR 01/12/2018 2018-3/70
 R277-490 Beverley Taylor Sorenson Elementary Arts Learning Program (BTSALP) 42481 AMD 03/14/2018 2018-3/13
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 R277-508 Employment of Substitute Teachers 42762 5YR 04/02/2018 Not Printed
 R277-515 Utah Educator Professional Standards 42324 AMD 01/09/2018 2017-23/11
 R277-518 Career and Technical Education Licenses 42618 5YR 02/26/2018 2018-6/47
 R277-519 Educator Professional Learning Procedures and Credit 42325 AMD 01/09/2018 2017-23/16
 R277-530-3 Board Expectations for Effective Teaching, Educational Leadership, and Educational School Counselor Standards 42439 NSC 01/25/2018 Not Printed
 R277-532 Local Board Policies for Evaluation of Non-Licensed Public Education Employees (Classified Employees) 42763 5YR 04/02/2018 Not Printed
 R277-610 Released-Time Classes and Public Schools District of Residence 42621 5YR 02/26/2018 2018-6/47
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 R277-708 Enhancement for At-Risk Students 42483 AMD 03/14/2018 2018-3/23
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 R277-751 Special Education Extended School Year (ESY) 42765 5YR 04/02/2018 Not Printed
 R277-920 Implementation of the School Turnaround and Leadership Development Act 42327 AMD 01/09/2018 2017-23/19

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 R307-102 General Requirements: Broadly Applicable Requirements 42639 5YR 03/08/2018 2018-7/161
 R307-107 General Requirements: Breakdowns 42640 5YR 03/08/2018 2018-7/162
 R307-115 General Conformity 42548 EXT 01/31/2018 2018-4/111
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R307-504	Oil and Gas Industry: Tank Truck Loading	42109	CPR	03/05/2018	2018-3/56
R307-505	Oil and Gas Industry: Registration Requirements	42110	NEW	01/26/2018	2017-19/71
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R307-507	Oil and Gas Industry: Dehydrators	42112	CPR	03/05/2018	2018-3/60

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R315-310	Permit Requirements for Solid Waste Facilities	42461	5YR	01/12/2018	2018-3/77
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R315-312	Recycling and Composting Facility Standards	42463	5YR	01/12/2018	2018-3/78
R315-313	Transfer Stations and Drop Box Facilities	42464	5YR	01/12/2018	2018-3/79
R315-314	Facility Standards for Piles Used for Storage and Treatment	42465	5YR	01/12/2018	2018-3/79
R315-315	Special Waste Requirements	42466	5YR	01/12/2018	2018-3/80
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R315-317	Other Processes, Variances, Violations, and Petition for Rule Change	42468	5YR	01/12/2018	2018-3/81
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R317-14	Approval of Change in Point of Discharge of POTW	42511	5YR	01/24/2018	2018-4/96
R317-101	Utah Wastewater Project Assistance Program	42705	5YR	03/20/2018	Not Printed

GOVERNOR

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R436-3	Amendment of Vital Records	42707	5YR	03/20/2018	Not Printed
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Disease Control and Prevention, Environmental Services

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R392-401	Roadway Rest Stop Sanitation	42514	R&R	03/26/2018	2018-4/27
R392-502	Hotel, Motel and Resort Sanitation	42515	R&R	03/26/2018	2018-4/31
R392-700	Indoor Tanning Bed Sanitation	42491	5YR	01/19/2018	2018-4/97

Disease Control and Prevention, Epidemiology

R386-702	Communicable Disease Rule	42285	AMD	01/02/2018	2017-22/31
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Disease Control and Prevention, Health Promotion

R384-201	School-Based Vision Screening for Students in Public Schools	42569	EXT	02/08/2018	2018-5/161
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Disease Control and Prevention, Laboratory Services

R438-15	Newborn Screening	42282	NEW	01/29/2018	2017-22/60
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Disease Control and Prevention: HIV/AIDS, Tuberculosis Control/Refugee Health

R388-805	Ryan White Part B Program	42328	AMD	02/01/2018	2017-23/28
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Family Health and Preparedness, Children with Special Health Care Needs

R398-1	Newborn Screening	42279	REP	01/29/2018	2017-22/46
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Family Health and Preparedness, Emergency Medical Services

R426-6	Emergency Medical Services Per Capita and Competitive Grant Programs Rules	42724	5YR	03/28/2018	Not Printed
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R432-2	General Licensing Provisions	42521	5YR	01/29/2018	2018-4/98
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R432-2-13	New License Required	42396	AMD	03/22/2018	2018-2/11
R432-3	General Health Care Facility Rules Inspection and Enforcement	42522	5YR	01/29/2018	2018-4/99
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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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	42425	R746-343	REP	02/21/2018	2018-2/28
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Public Safety, Fire Marshal	42683	R710-5	5YR	03/14/2018	2018-7/181
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Environmental Quality, Air Quality	42547	R307-354	EXT	01/31/2018	2018-4/115
	42665	R307-354	5YR	03/08/2018	2018-7/176
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Education, Administration	42480	R277-415	NEW	03/14/2018	2018-3/11
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Human Services, Administration	42417	R495-885	AMD	02/23/2018	2018-2/13
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Human Services, Administration, Administrative Services, Licensing	42233	R501-14	AMD	02/23/2018	2017-21/130
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<u>big game seasons</u>					
Natural Resources, Wildlife Resources	42371	R657-5	AMD	02/07/2018	2018-1/19
	42373	R657-71	NEW	02/07/2018	2018-1/52
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Natural Resources, Wildlife Resources	42376	R657-9	AMD	02/07/2018	2018-1/33
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Health, Disease Control and Prevention, Environmental Services	42516	R392-300	R&R	03/26/2018	2018-4/4	
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<u>certified foster care</u>						
Human Services, Administration, Administrative Services, Licensing	42217	R501-12	AMD	02/23/2018	2017-21/120	
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	42598	R512-201	5YR	02/15/2018	2018-5/144	
	42599	R512-202	5YR	02/15/2018	2018-5/144	
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	42601	R512-301	5YR	02/15/2018	2018-5/145	
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	42597	R512-200	5YR	02/15/2018	2018-5/143	
	42598	R512-201	5YR	02/15/2018	2018-5/144	
	42599	R512-202	5YR	02/15/2018	2018-5/144	
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	42605	R512-500	5YR	02/15/2018	2018-5/147	
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	42542	R307-350	EXT	01/31/2018	2018-4/114
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concealed firearm permits

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	42114	R307-509	CPR	03/05/2018	2018-3/63
	42115	R307-510	NEW	03/05/2018	2017-19/81
	42115	R307-510	CPR	03/05/2018	2018-3/65
<u>general conformity</u>					
Environmental Quality, Air Quality	42548	R307-115	EXT	01/31/2018	2018-4/111
	42641	R307-115	5YR	03/08/2018	2018-7/163
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Environmental Quality, Waste Management and Radiation Control, Waste Management	42672	R315-262-17	NSC	03/30/2018	Not Printed
<u>good cause</u>					
Pardons (Board Of), Administration	42581	R671-515	5YR	02/13/2018	2018-5/153
<u>government documents</u>					
Attorney General, Administration	42367	R105-2	AMD	02/07/2018	2018-1/2
<u>government hearings</u>					
Commerce, Occupational and Professional Licensing	42428	R156-46b-401	NSC	01/18/2018	Not Printed
Pardons (Board Of), Administration	42231	R671-304	AMD	01/08/2018	2017-21/171
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Education, Administration	42484	R277-717	AMD	03/14/2018	2018-3/26
<u>graduation requirements</u>					
Education, Administration	42482	R277-700	AMD	03/14/2018	2018-3/16
	42394	R277-705	AMD	02/28/2018	2018-1/5
<u>GRAMA</u>					
Attorney General, Administration	42367	R105-2	AMD	02/07/2018	2018-1/2
<u>grants</u>					
Education, Administration	42471	R277-490	5YR	01/12/2018	2018-3/70
	42481	R277-490	AMD	03/14/2018	2018-3/13
Governor, Economic Development	42332	R357-16	AMD	01/17/2018	2017-23/25
	42633	R357-16	NSC	03/14/2018	Not Printed
<u>grants and loans</u>					
Environmental Quality, Air Quality	42642	R307-123	5YR	03/08/2018	2018-7/163
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Environmental Quality, Air Quality	42544	R307-351	EXT	01/31/2018	2018-4/115
	42662	R307-351	5YR	03/08/2018	2018-7/174
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Environmental Quality, Air Quality	42108	R307-401	AMD	03/05/2018	2017-19/58
	42108	R307-401	CPR	03/05/2018	2018-3/49
	42574	R307-401	NSC	03/05/2018	Not Printed
<u>hazardous materials</u>					
Administrative Services, Administrative Rules	42674	R710-12	EXD	03/12/2018	2018-7/183

<u>hazardous waste</u>						
Environmental Quality, Waste Management and Radiation Control, Waste Management	42615	R315-15-5	NSC	03/14/2018	Not Printed	
	42672	R315-262-17	NSC	03/30/2018	Not Printed	
<u>health care facilities</u>						
Health, Family Health and Preparedness, Licensing	42520	R432-1	5YR	01/29/2018	2018-4/98	
	42521	R432-2	5YR	01/29/2018	2018-4/98	
	42397	R432-2-5	AMD	03/22/2018	2018-2/9	
	42396	R432-2-13	AMD	03/22/2018	2018-2/11	
	42522	R432-3	5YR	01/29/2018	2018-4/99	
	42523	R432-4	5YR	01/29/2018	2018-4/99	
	42524	R432-5	5YR	01/29/2018	2018-4/100	
	42525	R432-6	5YR	01/29/2018	2018-4/100	
	42518	R432-16	5YR	01/29/2018	2018-4/101	
	42519	R432-35	5YR	01/29/2018	2018-4/101	
	42201	R432-150-8	AMD	01/11/2018	2017-21/108	
	42200	R432-270-19	AMD	01/11/2018	2017-21/109	
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Health, Center for Health Data, Vital Records and Statistics	42712	R436-9	5YR	03/21/2018	Not Printed	
<u>hearings</u>						
Environmental Quality, Water Quality	42509	R317-9	5YR	01/24/2018	2018-4/95	
Health, Health Care Financing, Coverage and Reimbursement Policy	42440	R414-301	5YR	01/08/2018	2018-3/83	
Pardons (Board Of), Administration	42295	R671-201	AMD	01/08/2018	2017-22/75	
	42579	R671-513	5YR	02/13/2018	2018-5/152	
	42584	R671-517	5YR	02/13/2018	2018-5/154	
	42586	R671-519	5YR	02/13/2018	2018-5/155	
	42587	R671-520	5YR	02/13/2018	2018-5/156	
	42588	R671-522	5YR	02/13/2018	2018-5/156	
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Education, Administration	42394	R277-705	AMD	02/28/2018	2018-1/5	
<u>HIPAA</u>						
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<u>HIV/AIDS</u>						
Health, Disease Control and Prevention; HIV/AIDS, Tuberculosis Control/Refugee Health	42328	R388-805	AMD	02/01/2018	2017-23/28	
<u>hospitals</u>						
Environmental Quality, Air Quality	42532	R307-222	EXT	01/31/2018	2018-4/112	
	42647	R307-222	5YR	03/08/2018	2018-7/166	
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Health, Disease Control and Prevention, Environmental Services	42515	R392-502	R&R	03/26/2018	2018-4/31	
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Human Services, Administration, Administrative Services, Licensing	42216	R501-1	AMD	02/23/2018	2017-21/111	
	42217	R501-12	AMD	02/23/2018	2017-21/120	
	42233	R501-14	AMD	02/23/2018	2017-21/130	
	42234	R501-18	AMD	02/07/2018	2017-21/136	
Human Services, Services for People with Disabilities	42560	R539-1	NSC	03/01/2018	Not Printed	
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	42645	R307-220	5YR	03/08/2018	2018-7/165	
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Science Technology and Research Governing Authority, Administration	42357	R856-2	R&R	01/23/2018	2017-24/28	
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Environmental Quality, Air Quality	42532	R307-222	EXT	01/31/2018	2018-4/112	
	42647	R307-222	5YR	03/08/2018	2018-7/166	
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	42294	R671-202	AMD	01/08/2018	2017-22/77	
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Agriculture and Food, Plant Industry	42530	R68-5	5YR	01/30/2018	2018-4/95	
	42531	R68-5	NSC	02/27/2018	Not Printed	
Agriculture and Food, Regulatory Services	42422	R70-940	R&R	02/22/2018	2018-2/6	
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Insurance, Administration	42438	R590-157	5YR	01/04/2018	2018-3/90	
<u>insurance fees</u>						
Insurance, Administration	42395	R590-102	AMD	02/08/2018	2018-1/11	
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Insurance, Administration	42686	R590-94	5YR	03/14/2018	2018-7/179	
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Transportation, Operations, Maintenance	42392	R918-6	AMD	02/07/2018	2018-1/53	
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Transportation, Operations, Maintenance	42392	R918-6	AMD	02/07/2018	2018-1/53	
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<u>juvenile confinement in adult jails</u> Governor, Criminal and Juvenile Justice (State Commission on)	42055	R356-4	NEW	01/02/2018	2017-18/26
<u>juvenile confinement in lockups</u> Governor, Criminal and Juvenile Justice (State Commission on)	42055	R356-4	NEW	01/02/2018	2017-18/26
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Transportation, Operations, Maintenance	42392	R918-6	AMD	02/07/2018	2018-1/53	
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Environmental Quality, Air Quality	42535	R307-250	EXT	01/31/2018	2018-4/113	
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<u>Medicaid</u>						
Health, Health Care Financing	42517	R410-14	EMR	01/29/2018	2018-4/81	
Health, Health Care Financing, Coverage and Reimbursement Policy	42180	R414-3A	AMD	03/05/2018	2017-20/26	
	42180	R414-3A	CPR	03/05/2018	2018-2/42	
	42306	R414-4x	REP	01/19/2018	2017-23/49	
	42427	R414-27	5YR	01/02/2018	2018-2/54	
	42440	R414-301	5YR	01/08/2018	2018-3/83	
	42441	R414-302	5YR	01/08/2018	2018-3/84	
	42487	R414-302-6	EMR	01/19/2018	2018-4/85	
	42444	R414-305	5YR	01/08/2018	2018-3/85	
	42446	R414-308	5YR	01/08/2018	2018-3/86	
	42488	R414-308-3	EMR	01/19/2018	2018-4/87	
	42489	R414-311	EMR	01/19/2018	2018-4/90	
	42353	R414-517	AMD	01/29/2018	2017-24/16	
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Environmental Quality, Air Quality	42532	R307-222	EXT	01/31/2018	2018-4/112	
	42647	R307-222	5YR	03/08/2018	2018-7/166	
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Labor Commission, Industrial Accidents	42563	R612-300	5YR	02/08/2018	2018-5/149	
<u>medical transportation</u>						
Health, Health Care Financing, Coverage and Reimbursement Policy	42445	R414-306	5YR	01/08/2018	2018-3/86	
<u>medication treatment</u>						
Human Services, Substance Abuse and Mental Health, State Hospital	42474	R525-3	5YR	01/16/2018	2018-3/87	
	42558	R525-3	NSC	03/01/2018	Not Printed	
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Environmental Quality, Air Quality	42534	R307-224	EXT	01/31/2018	2018-4/112	
	42649	R307-224	5YR	03/08/2018	2018-7/167	
<u>metal containers</u>						
Environmental Quality, Air Quality	42545	R307-352	EXT	01/31/2018	2018-4/115	
	42663	R307-352	5YR	03/08/2018	2018-7/175	
<u>metal furniture</u>						
Environmental Quality, Air Quality	42539	R307-346	EXT	01/31/2018	2018-4/114	
	42656	R307-346	5YR	03/08/2018	2018-7/171	
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Natural Resources, Wildlife Resources	42376	R657-9	AMD	02/07/2018	2018-1/33	
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Natural Resources, Oil, Gas and Mining; Non-Coal	42500	R647-1	5YR	01/24/2018	2018-4/105	
	42501	R647-2	5YR	01/24/2018	2018-4/105	
	42502	R647-3	5YR	01/24/2018	2018-4/106	
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	42504	R647-5	5YR	01/24/2018	2018-4/107
	42505	R647-6	5YR	01/24/2018	2018-4/108
	42506	R647-7	5YR	01/24/2018	2018-4/108
	42507	R647-8	5YR	01/24/2018	2018-4/109
<u>miscellaneous metal parts</u>					
Environmental Quality, Air Quality	42542	R307-350	EXT	01/31/2018	2018-4/114
	42661	R307-350	5YR	03/08/2018	2018-7/174
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Natural Resources, Administration	42309	R634-3	NEW	03/26/2018	2017-23/67
	42309	R634-3	CPR	03/26/2018	2018-4/71
<u>monitoring</u>					
Environmental Quality, Air Quality	42550	R307-170	EXT	01/31/2018	2018-4/111
	42643	R307-170	5YR	03/08/2018	2018-7/164
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Health, Disease Control and Prevention, Environmental Services	42515	R392-502	R&R	03/26/2018	2018-4/31
<u>mothers</u>					
Health, Center for Health Data, Vital Records and Statistics	42707	R436-3	5YR	03/20/2018	Not Printed
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Agriculture and Food, Regulatory Services	42422	R70-940	R&R	02/22/2018	2018-2/6
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<u>municipal landfills</u>					
Environmental Quality, Air Quality	42552	R307-221	EXT	01/31/2018	2018-4/112
	42646	R307-221	5YR	03/08/2018	2018-7/166
<u>municipal waste incinerator</u>					
Environmental Quality, Air Quality	42533	R307-223	EXT	01/31/2018	2018-4/112
	42648	R307-223	5YR	03/08/2018	2018-7/167
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Workforce Services, Unemployment Insurance	42740	R994-315	5YR	03/29/2018	Not Printed
<u>newborn screening</u>					
Health, Disease Control and Prevention, Laboratory Services	42282	R438-15	NEW	01/29/2018	2017-22/60
Health, Family Health and Preparedness, Children with Special Health Care Needs	42279	R398-1	REP	01/29/2018	2017-22/46
<u>non-licensed public education employees</u>					
Education, Administration	42763	R277-532	5YR	04/02/2018	Not Printed
<u>nurse practitioners</u>					
Labor Commission, Industrial Accidents	42563	R612-300	5YR	02/08/2018	2018-5/149
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Commerce, Occupational and Professional Licensing	42448	R156-31b	5YR	01/08/2018	2018-3/69
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Education, Administration	42620	R277-719	5YR	02/26/2018	2018-6/48
<u>occupational licensing</u>					
Commerce, Occupational and Professional Licensing	42428	R156-46b-401	NSC	01/18/2018	Not Printed
	42429	R156-55b-102	NSC	01/18/2018	Not Printed

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	42682	R651-407	5YR	03/13/2018	2018-7/181

oil

Environmental Quality, Air Quality	42109	R307-504	AMD	03/05/2018	2017-19/70
	42109	R307-504	CPR	03/05/2018	2018-3/56
	42110	R307-505	NEW	01/26/2018	2017-19/71
	42111	R307-506	NEW	03/05/2018	2017-19/73
	42111	R307-506	CPR	03/05/2018	2018-3/58
	42112	R307-507	NEW	03/05/2018	2017-19/75
	42112	R307-507	CPR	03/05/2018	2018-3/60
	42113	R307-508	NEW	03/05/2018	2017-19/77
	42113	R307-508	CPR	03/05/2018	2018-3/62
	42114	R307-509	NEW	03/05/2018	2017-19/79
	42114	R307-509	CPR	03/05/2018	2018-3/63
	42115	R307-510	NEW	03/05/2018	2017-19/81
	42115	R307-510	CPR	03/05/2018	2018-3/65

oil and gas law

Natural Resources, Oil, Gas and Mining; Oil and Gas	42508	R649-6	5YR	01/24/2018	2018-4/109
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operator certification

Environmental Quality, Water Quality	42274	R317-10-10	AMD	01/24/2018	2017-22/29
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osteopathic physicians

Commerce, Occupational and Professional Licensing	42447	R156-68	5YR	01/08/2018	2018-3/70
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osteopaths

Commerce, Occupational and Professional Licensing	42447	R156-68	5YR	01/08/2018	2018-3/70
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out-of-home care

Human Services, Child and Family Services	42603	R512-305	5YR	02/15/2018	2018-5/146
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outdoor recreation

Governor, Economic Development	42332	R357-16	AMD	01/17/2018	2017-23/25
	42633	R357-16	NSC	03/14/2018	Not Printed

Outdoor Recreation Infrastructure Grant

Governor, Economic Development	42332	R357-16	AMD	01/17/2018	2017-23/25
	42633	R357-16	NSC	03/14/2018	Not Printed

outdoor wood boilers

Environmental Quality, Air Quality	42644	R307-208	5YR	03/08/2018	2018-7/164
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paper coating

Environmental Quality, Air Quality	42537	R307-344	EXT	01/31/2018	2018-4/113
	42654	R307-344	5YR	03/08/2018	2018-7/170

parole

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	42294	R671-202	AMD	01/08/2018	2017-22/77
	42227	R671-205	AMD	01/08/2018	2017-21/169
	42576	R671-509	5YR	02/13/2018	2018-5/151
	42577	R671-510	5YR	02/13/2018	2018-5/151
	42578	R671-512	5YR	02/13/2018	2018-5/152
	42579	R671-513	5YR	02/13/2018	2018-5/152
	42580	R671-514	5YR	02/13/2018	2018-5/153
	42581	R671-515	5YR	02/13/2018	2018-5/153
	42583	R671-516	5YR	02/13/2018	2018-5/154
	42584	R671-517	5YR	02/13/2018	2018-5/154
	42585	R671-518	5YR	02/13/2018	2018-5/155
	42586	R671-519	5YR	02/13/2018	2018-5/155
	42587	R671-520	5YR	02/13/2018	2018-5/156
	42588	R671-522	5YR	02/13/2018	2018-5/156

<u>patient rights</u>						
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<u>penalties</u>						
Health, Center for Health Data, Vital Records and Statistics	42718	R436-16	5YR	03/21/2018	Not Printed	
<u>per diem allowances</u>						
Administrative Services, Finance	42570	R25-5	5YR	02/08/2018	2018-5/141	
	42572	R25-7	5YR	02/08/2018	2018-5/142	
<u>permits</u>						
Environmental Quality, Air Quality	42108	R307-401	AMD	03/05/2018	2017-19/58	
	42108	R307-401	CPR	03/05/2018	2018-3/49	
	42574	R307-401	NSC	03/05/2018	Not Printed	
Health, Center for Health Data, Vital Records and Statistics	42709	R436-8	5YR	03/20/2018	Not Printed	
Natural Resources, Wildlife Resources	42374	R657-62	AMD	02/07/2018	2018-1/41	
	42493	R657-62	AMD	03/26/2018	2018-4/57	
<u>physical therapist</u>						
Commerce, Occupational and Professional Licensing	42623	R156-24b-102	NSC	03/14/2018	Not Printed	
<u>physical therapist assistant</u>						
Commerce, Occupational and Professional Licensing	42623	R156-24b-102	NSC	03/14/2018	Not Printed	
<u>physical therapy</u>						
Commerce, Occupational and Professional Licensing	42623	R156-24b-102	NSC	03/14/2018	Not Printed	
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	42667	R307-356	5YR	03/08/2018	2018-7/177	
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