

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://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 801-957-7110. Additional rulemaking information and electronic versions of all administrative rule publications are available at <https://rules.utah.gov/>.

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

Office of Administrative Rules, Salt Lake City 84114

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EXECUTIVE DOCUMENTS

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

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

EXECUTIVE ORDER

Updating the Utah COVID-19 Health Risk Status in Certain Areas and Adopting Version 4.6 of the Phased Guidelines

WHEREAS, on March 6, 2020, I issued Executive Order 2020-1, declaring a state of emergency to facilitate the State's response to novel coronavirus disease 2019 (COVID-19);

WHEREAS, on March 13, 2020, Donald J. Trump, President of the United States, issued the Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak;

WHEREAS, COVID-19 is caused by a virus that spreads easily from person to person, may result in serious illness or death, and has been characterized by the World Health Organization as a worldwide pandemic;

WHEREAS, the State must establish minimum standards to address a statewide emergency and recognizes the need for local authorities to impose directives and orders to address the unique circumstances in different locations in Utah;

WHEREAS, the Utah Department of Health has released and updated the Phased Guidelines for the General Public and Businesses to Maximize Public Health and Economic Reactivation, which provide a color-coded health guidance system comprising four levels of activity designated as Red (High Risk), Orange (Moderate Risk), Yellow (Low Risk), and Green (Normal Risk) (hereinafter, "Utah COVID-19 Health Risk Status"), where Red is most restrictive, and each level of guidance after Red becomes progressively less restrictive and more economically engaged while still protecting public health;

WHEREAS, the Utah Department of Health has determined that it is appropriate to change the Utah COVID-19 Health Risk Status for Kane County to Green (Normal Risk) and for the town of Bluff and the census-designated place Mexican Hat to Yellow (Low Risk);

WHEREAS, Utah Code § 53-2a-209(1) provides that orders issued by the governor under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act, have the "full force and effect of law";

WHEREAS, Utah Code § 53-2a-204(1)(a) authorizes the governor to utilize all available resources of state government as reasonably necessary to cope with a state of emergency; and

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary for the purpose of securing compliance with orders made pursuant to the Disaster Response and Recovery Act:

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the following:

- 1, As used in this Order, "Phased Guidelines" means the Phased Guidelines for the General Public and Businesses to Maximize Public Health and Economic Reactivation version 4.6.
2. The Utah COVID-19 Public Health Risk Status is:
 - a. Orange (Moderate Risk) in Salt Lake City;

EXECUTIVE DOCUMENTS

- b. Green (Normal Risk) in Kane County; and
- c. Yellow (Low Risk) in each area of the State not identified in Subsection (2)(a) or (2)(b).
- 3. The provisions of the Phased Guidelines apply as follows:

An individual or business in an area identified in Subsection (2)(a) shall comply with the Orange (Moderate Risk) provisions of the Phased Guidelines;

a. An individual or business in an area identified in Subsection (2)(b) shall comply with the Green (Normal Risk) provisions of the Phased Guidelines;

b. An individual or business in an area identified in Subsection (2)(c) shall comply with the Yellow (Low Risk) provisions of the Phased Guidelines; and

c. Notwithstanding any other provision of Section (3), any reference in the Phased Guidelines to the use of a mask or face covering is adopted:

i. as an order for:

A. each individual who is acting in the capacity as an employee of a business when the individual is unable to maintain a distance of six feet from another individual; and

B. each individual in a healthcare setting; and

ii. s a strong recommendation for any individual not identified in Subsection (3)(d)(i).

4. A political subdivision desiring an exception to this Order or the Phased Guidelines or desiring to move to Green (Normal Risk) shall submit the request and justification for the request through the applicable Local Health Department to the Utah Department of Health. The Utah Department of Health shall consult with the Office of the Governor as necessary.

5. Executive Order 2020-30 is rescinded and replaced by this Order.

This Order is declared effective on June 12, 2020 at 10:00 a.m. and shall remain in effect until 11:59 p.m. on June 26, 2020, unless otherwise lawfully modified, amended, rescinded, or superseded.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 12th day of June, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/031/EO

PROCLAMATION

WHEREAS, since the adjournment of the 2020 General Session of the Sixty-third Legislature of the State of Utah, certain matters have arisen which require immediate legislative attention; and

WHEREAS, Article VII, Section 6 of the Constitution of the State of Utah provides that the Governor may, by proclamation, convene the Legislature into Special Session;

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, by virtue of the authority vested in me by the Constitution and the laws of the State of Utah, do by this Proclamation call the Sixty-third Legislature of the State of Utah into a Fifth Special Session at the Utah State Capitol, in Salt Lake City, Utah, on the 18th day of June 2020, at 9:30 a.m., to consider the following:

- 1. adjusting the fiscal year 2020 and fiscal year 2021 budgets and making statutory changes relating to those budgets;

2. making changes to data privacy provisions relating to the State's response to COVID-19;
3. providing rent and mortgage assistance for individuals and small businesses affected by COVID-19;
4. recognizing the students graduating from high school and institutions of higher education in 2020;
5. changing private investigator residency requirements;
6. amending provisions relating to the unveiling of the statue of Martha Hughes Cannon in the United States Capitol and extending the repeal date of the Martha Hughes Cannon Capitol Statue Oversight Committee;
7. correcting a mistake made in S.B. 90 from the 2020 General Session;
8. making technical corrections to the Utah Code;
9. making changes to municipal annexation requirements;
10. modifying alcohol policies at the Salt Lake City International Airport;
11. modifying unemployment insurance provisions;
12. addressing certain methods of restraint by peace officers;
13. extending the COVID-19 state of emergency;
14. making changes to the Federal Funds Procedures Act and the Emergency Management Act to require notification by the governor to the Legislature before the expenditure of federal funds received during a pandemic emergency;
15. addressing the operation of the Open and Public Meetings Act during an emergency;
16. addressing governmental immunity related to exposure to COVID-19;
17. addressing exposure to bodily fluids by first responders and correctional facilities staff;
18. addressing testing for COVID-19 of staff and residents of residential care facilities;
19. establishing targeted assistance programs with CARES Act Funding;
20. making adjustments to the Utah Fund of Funds;
21. providing approval of the purchase of two pieces of real property and transferring funds from the Fleet Motor Pool Fund to the State Fuel Network Fund for the purchase of the real property;
22. approving a proposed settlement agreement to resolve the Hepatitis C class action lawsuit against the State of Utah and the Department of Corrections;
23. addressing the transfer of reserve funds from the state health insurance pool to the state;
24. modifying Section 53F-8-303 to allow school districts to use revenue generated by the Capital Levy to fund the school district's general fund for the FY21;
25. making changes to the state's workers' compensation insurance program related to first responders who allege that they contracted COVID-19 during the performance of their job duties; and
26. For the Senate to consent to appointments made by the Governor.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done at the Utah State Capitol in Salt Lake City, Utah, this 16th day of June 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/5/S

EXECUTIVE ORDER

Updating the Utah COVID-19 Health Risk Status in Certain Counties

WHEREAS, on March 6, 2020, I issued Executive Order 2020-1, declaring a state of emergency to facilitate the State's response to novel coronavirus disease 2019 (COVID-19);

WHEREAS, on March 13, 2020, Donald J. Trump, President of the United States, issued the Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak;

WHEREAS, COVID-19 is caused by a virus that spreads easily from person to person, may result in serious illness or death, and has been characterized by the World Health Organization as a worldwide pandemic;

WHEREAS, the State must establish minimum standards to address a statewide emergency and recognizes the need for local authorities to impose directives and orders to address the unique circumstances in different locations in Utah;

WHEREAS, the Utah Department of Health has released and updated the Phased Guidelines for the General Public and Businesses to Maximize Public Health and Economic Reactivation, which provide a color-coded health guidance system comprising four levels of activity designated as Red (High Risk), Orange (Moderate Risk), Yellow (Low Risk), and Green (Normal Risk) (hereinafter, "Utah COVID-19 Health Risk Status"), where Red is most restrictive, and each level of guidance after Red becomes progressively less restrictive and more economically engaged while still protecting public health;

WHEREAS, the Utah Department of Health, local officials, and I have determined that it is appropriate to change the Utah COVID-19 Health Risk Status to Green (Normal Risk) for Beaver County, Daggett County, Duchesne County, Emery County, Garfield County, Millard County, Piute County, Uintah County, and Wayne County;

WHEREAS, Utah Code § 53-2a-209(1) provides that orders issued by the governor under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act, have the "full force and effect of law";

WHEREAS, Utah Code § 53-2a-204(1)(a) authorizes the governor to utilize all available resources of state government as reasonably necessary to cope with a state of emergency; and

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary for the purpose of securing compliance with orders made pursuant to the Disaster Response and Recovery Act:

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the following:

1. As used in this Order, "Phased Guidelines" means the Phased Guidelines for the General Public and Businesses to Maximize Public Health and Economic Reactivation version 4.6.
2. The Utah COVID-19 Public Health Risk Status is:
 - a. Orange (Moderate Risk) in Salt Lake City;
 - b. Green (Normal Risk) in Beaver County, Daggett County, Duchesne County, Emery County, Garfield County, Kane County, Millard County, Piute County, Uintah County, and Wayne County; and
 - c. Yellow (Low Risk) in each area of the State not identified in Subsection (2)(a) or (2)(b).
3. The provisions of the Phased Guidelines apply as follows:
 - a. An individual or business in an area identified in Subsection (2)(a) shall comply with the Orange (Moderate Risk) provisions of the Phased Guidelines;
 - b. An individual or business in an area identified in Subsection (2)(b) shall comply with the Green (Normal Risk) provisions of the Phased Guidelines;
 - c. An individual or business in an area identified in Subsection (2)(c) shall comply with the Yellow (Low Risk) provisions of the Phased Guidelines; and
 - d. Notwithstanding any other provision of Section (3), any reference in the Phased Guidelines to the use of a mask or face covering is adopted:
 - i. as an order for:
 - A. each individual who is acting in the capacity as an employee of a business when the individual is unable to maintain a distance of six feet from another individual; and
 - B. each individual in a healthcare setting; and
 - ii. as a strong recommendation for any individual not identified in Subsection (3)(d)(i).
4. A political subdivision desiring an exception to this Order or the Phased Guidelines or desiring to move to Green (Normal Risk) shall submit the request and justification for the request through the applicable Local Health Department to the Utah Department of Health. The Utah Department of Health shall consult with the Office of the Governor as necessary.
5. Executive Order 2020-31 is rescinded and replaced by this Order.

This Order is declared effective at 1:00 p.m. on June 19, 2020 and shall remain in effect until 11:59 p.m. on July 3, 2020, unless otherwise lawfully modified, amended, rescinded, or superseded.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 19th day of June, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/032/EO

EXECUTIVE ORDER

Adopting Version 4.7 of the State COVID-19 Public Health Risk Status Phased Guidelines

WHEREAS, on March 6, 2020, I issued Executive Order 2020-1, declaring a state of emergency to facilitate the State's response to novel coronavirus disease 2019 (COVID-19);

WHEREAS, on March 13, 2020, Donald J. Trump, President of the United States, issued the Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak;

WHEREAS, COVID-19 is caused by a virus that spreads easily from person to person, may result in serious illness or death, and has been characterized by the World Health Organization as a worldwide pandemic;

WHEREAS, the State must establish minimum standards to address a statewide emergency and recognizes the need for local authorities to impose directives and orders to address the unique circumstances in different locations in Utah;

WHEREAS, the Utah Department of Health has released and updated the Phased Guidelines for the General Public and Businesses to Maximize Public Health and Economic Reactivation, which provide a color-coded health guidance system comprising four levels of activity designated as Red (High Risk), Orange (Moderate Risk), Yellow (Low Risk), and Green (Normal Risk) (hereinafter, "Utah COVID-19 Health Risk Status"), where Red is most restrictive, and each level of guidance after Red becomes progressively less restrictive and more economically engaged while still protecting public health;

WHEREAS, the Utah Department of Health has updated the Phased Guidelines for the General Public and Businesses to Maximize Public Health and Economic Reactivation to version 4.7;

WHEREAS, Utah Code § 53-2a-209(1) provides that orders issued by the governor under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act, have the "full force and effect of law";

WHEREAS, Utah Code § 53-2a-204(1)(a) authorizes the governor to utilize all available resources of state government as reasonably necessary to cope with a state of emergency; and

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary for the purpose of securing compliance with orders made pursuant to the Disaster Response and Recovery Act:

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the following:

1. As used in this Order, "Phased Guidelines" means the Phased Guidelines for the General Public and Businesses to Maximize Public Health and Economic Reactivation version 4.7.
2. The Utah COVID-19 Public Health Risk Status is:
 - a. Orange (Moderate Risk) in Salt Lake City;
 - b. Green (Normal Risk) in Beaver County, Daggett County, Duchesne County, Emery County, Garfield County, Kane County, Millard County, Piute County, Uintah County, and Wayne County; and

EXECUTIVE DOCUMENTS

- c. Yellow (Low Risk) in each area of the State not identified in Subsection (2)(a) or (2)(b).
- 3. The provisions of the Phased Guidelines apply as follows:
 - a. An individual or business in an area identified in Subsection (2)(a) shall comply with the Orange (Moderate Risk) provisions of the Phased Guidelines;
 - b. An individual or business in an area identified in Subsection (2)(b) shall comply with the Green (Normal Risk) provisions of the Phased Guidelines;
 - c. An individual or business in an area identified in Subsection (2)(c) shall comply with the Yellow (Low Risk) provisions of the Phased Guidelines; and
 - d. Notwithstanding any other provision of Section (3), any reference in the Phased Guidelines to the use of a mask or face covering is adopted:
 - i. as an order for:
 - A. each individual who is acting in the capacity as an employee of a business when the individual is unable to maintain a distance of six feet from another individual; and
 - B. each individual in a healthcare setting; and
 - ii. as a strong recommendation for any individual not identified in Subsection (3)(d)(i).
- 4. A political subdivision desiring an exception to this Order or the Phased Guidelines or desiring to move to Green (Normal Risk) shall submit the request and justification for the request through the applicable Local Health Department to the Utah Department of Health. The Utah Department of Health shall consult with the Office of the Governor as necessary.
- 5. This Order rescinds and replaces Executive Order 2020-32.

This Order is declared effective at 5:00 p.m. on June 26, 2020 and shall remain in effect until 11:59 p.m. on July 10, 2020, unless otherwise lawfully modified, amended, rescinded, or superseded.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 26th day of June, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/033/EO

EXECUTIVE ORDER

Requiring Face Coverings in State Facilities

WHEREAS, on March 6, 2020, I issued Executive Order 2020-1, declaring a state of emergency to facilitate the State's response to novel coronavirus disease 2019 (COVID-19);

WHEREAS, on March 13, 2020, Donald J. Trump, President of the United States, issued the Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak;

WHEREAS, COVID-19 is caused by a virus that spreads easily from person to person, may result in serious illness or death, and has been characterized by the World Health Organization as a worldwide pandemic;

WHEREAS, COVID-19 can spread between individuals in close proximity through respiratory droplets produced when an infected individual speaks, coughs, or sneezes;

WHEREAS, an infected individual can transmit COVID-19 even if the individual does not present symptoms;

WHEREAS, the United States Centers for Disease Control and Prevention and the Utah Department of Health have recommended the use of face masks or other face coverings to mitigate the transmission of COVID-19;

WHEREAS, the Utah Department of Health and I have determined that it is appropriate to require individuals to wear face coverings while in a state facility to protect public health;

WHEREAS, Utah Code § 53-2a-209(1) provides that orders issued by the governor under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act, have the "full force and effect of law";

WHEREAS, Utah Code § 53-2a-204(1)(a) authorizes the governor to utilize all available resources of state government as reasonably necessary to cope with a state of emergency; and

WHEREAS, Utah Code § 53-2a-204(1)(b) authorizes the governor to employ measures and give direction to state and local officers and agencies that are reasonable and necessary for the purpose of securing compliance with orders made pursuant to the Disaster Response and Recovery Act:

NOW, THEREFORE, I, Gary R. Herbert, Governor of the State of Utah, hereby order the following:

1. As used in this Order:
 - a. "Face covering" means a cloth mask or similar covering that covers the nose and mouth.
 - b.i. "State facility" means any portion of a building or structure, including any part thereof, that is owned or leased by the state or a state governmental entity.
 - ii. "State facility" does not mean:
 - A. a state prison or state community correctional center; or
 - B. a building or structure, or part thereof, that is exclusively owned, leased, occupied, or controlled by:
 - I. the legislative branch of the state;
 - II. the judicial branch of the state;
 - III. the Attorney General's Office;
 - IV. the State Auditor's Office;
 - V. the State Treasurer's Office; or
 - VI. an independent entity as defined in Utah Code § 53B-3-102.
 - c. "State governmental entity" means any department, board, commission, institution, agency, or institution of higher education of the state.
 2. Each individual in a state facility shall wear a face covering, except as provided in Section (3).
 3. Section (2) does not apply to:
 - a. a child who:
 - i. is in a childcare setting;
 - ii. is younger than two years old; or
 - iii. is two years old or older if the parent, guardian, or individual responsible for caring for the child cannot place the face covering safely on the child's face;
 - b. an individual with a medical condition, mental health condition, or disability that prevents wearing a face covering, including an individual with a medical condition for whom wearing a face covering could cause harm or obstruct breathing, or who is unconscious, incapacitated, or otherwise unable to remove a face covering without assistance;
 - c. an individual who is hearing impaired, or communicating with an individual who is hearing impaired, where the ability to see the mouth is essential for communication;
 - d. an individual who is obtaining a service involving the nose or face for which temporary removal of the face covering is necessary to perform the service;
 - e. an individual who is outdoors;
 - f. an individual in a vehicle; or
 - g. an individual who is eating or drinking and maintains a physical distance of at least six feet from any other individual who is not from the same household or residence;
 4. An individual who pursuant to Subsection (3)(b) does not comply with Section (2) shall not be required to produce medical documentation verifying the medical condition, mental health condition, or disability.
 5. The Utah Department of Corrections shall implement requirements regarding the wearing of face coverings in a state prison or state community correctional center to protect the health and safety of employees, visitors, and incarcerated individuals.

This Order is declared effective at 8:00 a.m. on June 29, 2020 and shall remain in effect until 11:59 p.m. on July 10, 2020, or until otherwise lawfully modified, amended, rescinded, or superseded.

EXECUTIVE DOCUMENTS

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Utah. Done in Salt Lake City, Utah, on this, the 26th day of June, 2020.

(State Seal)

Gary R. Herbert
Governor

ATTEST:

Spencer J. Cox
Lieutenant Governor

2020/034/EO

End of the Executive Documents 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 June 02, 2020, 12:00 a.m., and June 15, 2020, 11:59 p.m. are included in this, the July 01, 2020, 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 July 31, 2020. 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 October 29, 2020, 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** or 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

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R51-7	Filing No. 52825

Agency Information

1. Department:	Agriculture and Food	
Agency:	Administration	
Street address:	350 N Redwood Road	
City, state:	Salt Lake City, UT 84115	
Mailing address:	PO Box 146500	
City, state, zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	801-982-2202	ambermbrown@utah.gov
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R51-7. Open and Public Meetings Act Electronic Meetings
3. Purpose of the new rule or reason for the change:
This new rule allows public bodies organized under Title 4 or by the Department of Agriculture and Food (Department) rule to hold public meetings and is required by Section 52-4-207.
4. Summary of the new rule or change:
This rule provides guidelines for public bodies organized under Title 4 or Department rule to hold electronic meetings consistent with the Utah Open and Public Meetings Act. This rule details when, how, and where electronic meetings can be held, and how members and the public can participate.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule should not create any anticipated cost or savings to the state budget because the Department can hold electronic meetings without requiring purchase of any additional equipment.

B) Local governments:
This rule should not create any anticipated cost or savings to local governments because they are not members of public bodies created under Title 4 or Department rule.

C) Small businesses ("small business" means a business employing 1-49 persons):
This rule should not create any anticipated cost or savings to small businesses because they can still participate in electronic public meetings without any additional financial investment.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
This rule should not create any anticipated cost or savings to non-small businesses because they can still participate in electronic public meetings without any additional financial investment.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):
This rule should not create any anticipated costs or savings to others because they can still participate in electronic public meetings without additional financial investment.

F) Compliance costs for affected persons:
There are no compliance costs for affected persons because they continue to be able to participate in public meetings free of charge.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0

Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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

H) Department head approval of regulatory impact analysis:

Commissioner R. Logan Wilde, Utah Department of Agriculture and Food, has reviewed and approves this regulatory impact analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

This rule will allow public bodies organized under Title 4 or Department rule to hold electronic meetings consistent with state law as the need arises and will not have a fiscal impact on businesses.

B) Name and title of department head commenting on the fiscal impacts:

R. Logan Wilde, Commissioner

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 52-4-207	Section 63G-3-201	Section 4-2-103
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/31/2020

10. This rule change MAY become effective on: 08/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	R. Logan Wilde, Commissioner	Date:	06/09/2020
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R51. Agriculture and Food, Administration.

R51-7. Open and Public Meetings Act Electronic Meetings.

R51-7-1. Authority and Purpose.

(1) Section 52-4-207 requires a state public body that holds electronic meetings to have a rule governing the use of electronic meetings. This rule establishes procedures for conducting electronic meetings by each public body created by statute within Title 4, Utah Agricultural Code or by Department rule, except for any public body under the department that has adopted its own rule.

(2) A public body under the department with rule making authority may adopt a separate rule governing its electronic meetings.

(3) This rule is authorized by Sections 52-4-207, 63G-3-201 and 4-2-103.

R51-7-2. Definitions.

The definitions found in Section 52-4-103 apply to this rule. In addition, the following definitions apply:

(1) "Meeting" means a meeting of the public body that is required to be public by the provisions of Title 52, Chapter 4, Open and Public Meetings Act.

(2) "Electronic meeting" includes any meeting where at least one member of the public body participates in the public meeting by telephonic or other electronic means.

(3) "Presiding officer" means the member of the public body designated by statute, rule, or vote of the public body to preside at a meeting of the public body.

(4) "Business day" means a day that the Department is open to the public for the conduct of business, exclusive of weekends and state holidays.

R51-7-3. Designation of Electronic Meetings.

(1) The presiding officer may schedule any meeting as an electronic meeting upon the presiding officer's discretion or upon request of any member of the public body.

(a) A member of the public body may request that the member's participation in the meeting be allowed electronically up to 48 hours, but no less than two business days, prior to the commencement of the meeting. The presiding officer may refuse a member's request to hold a meeting electronically.

(b) If the Department cannot technically arrange for the meeting to be held electronically, the presiding officer's decision to allow electronic participation the Department may deny the request.

(c) The presiding officer or the Department may restrict the number of connections for members to participate in the meeting based on available equipment capability.

NOTICES OF PROPOSED RULES

(2) No vote of the public body is necessary to include other members of the public body to join the meeting through an electronic connection.

R51-7-4. Anchor Location.

(1) Unless otherwise designated in the posted public notice of the meeting, the anchor location for an electronic meeting held by the public body is the Utah Department of Agriculture and Food located at 350 North Redwood Road, Salt Lake City, Utah.

(2) The person presiding at the meeting may restrict the number of separate connections for members of the public body that are allowed for an electronic meeting based on available equipment capability.

(3) The Department shall provide a meeting room for an anchor location for any meeting that is held electronically.

R51-7-5. Quorum, Member Participation.

(1) A quorum is not required to be present at the anchor location.

(2) A member of the public body who participates in the meeting via electronic means shall be counted as present at the meeting for quorum, participation, and voting requirements.

R51-7-6. Public Participation.

Interested persons and the public may attend and monitor the open portions of the meeting at the anchor location.

KEY: electronic meetings, Open and Public Meetings Act
Date of Enactment or Last Substantive Amendment: 2020
Authorizing, and Implemented or Interpreted Law: 52-4-207; 63G-3-201; 4-2-103

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R52-7	Filing No. 52824

Agency Information

1. Department:	Agriculture and Food	
Agency:	Horse Racing Commission (Utah)	
Street address:	350 N Redwood Road	
City, state:	Salt Lake City, UT 84115	
Mailing address:	PO Box 146500	
City, state, zip:	Salt Lake City, UT 84114	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	801-982-2204	ambermbrown@utah.gov
Cody James	801-982-2376	codyjames@utah.gov
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
R52-7. Horse Racing
3. Purpose of the new rule or reason for the change:
The rule changes make necessary adjustments to Horse Racing Commission guidelines with the goal of adopting portions of model horse racing rules.
4. Summary of the new rule or change:
The rule changes adjust Horse Racing Commission guidelines related to veterinary practices and use of drugs and medication.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
These rule changes expand the Department of Agriculture and Food's (Department's) role in testing, which will lead to increased costs, however, the Utah Quarter Horse Racing Association (UQHRA) is planning to reimburse the Department for the costs, making the changes revenue neutral. The UQHRA is proposing to increase their fees to account for the additional cost of testing. Adopting the model rule could bring additional revenue into the state because owners may bring horses here from other states, however, any revenue benefit is difficult to quantify at this time.
B) Local governments:
These rule changes are not anticipated to create any costs or savings to local governments because they do not typically race horses and do not have jurisdiction over the Horse Racing Commission.
C) Small businesses ("small business" means a business employing 1-49 persons):
These rule changes do not increase costs for small businesses. While the UQHRA has proposed increasing their testing fees (possibly from \$100 to \$150) that could be paid by small businesses, those fees are not paid to the Department. It is impossible to know at this time how many small businesses will pay this increased fee.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
These rule changes do not increase costs for non-small businesses. While the UQHRA has proposed increasing their testing fees (possibly from \$100 to \$150) that could be paid by non-small businesses, those fees are not paid

to the Department. It is impossible to know at this time how many small businesses will pay this increased fee.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

These rule changes do not increase costs to other individuals. While an individual horse owner may pay an increased fee for testing, the fee will be charged by the UQHRA and not the Department. It is impossible to know at this time how many individuals will pay this increased fee.

F) Compliance costs for affected persons:

Affected persons may pay an increased testing fee to race horses (\$150 instead of \$100 potentially), however, that fee will be paid to the UQHRA and not the Department.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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
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H) Department head approval of regulatory impact analysis:

Commissioner R. Logan Wilde, Utah Department of Agriculture and Food, has reviewed and approves this regulatory impact analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

These rule changes adopt model horse racing rules and should not have a negative impact on businesses. The changes could have a positive fiscal impact because they will make Utah a more attractive location for horse racing as compared to other states.

B) Name and title of department head commenting on the fiscal impacts:

R. Logan Wilde, Commissioner

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 4-38-104		
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Incorporations by Reference Information

(If this rule incorporates more than two items by reference, please include additional tables.)

8. A) This rule adds, updates, or removes the following title of materials incorporated by references:

	First Incorporation
Official Title of Materials Incorporated (from title page)	Annex I: Prohibited Substances
Publisher	Utah Department of Agriculture and Food
Date Issued	June 22, 2020

B) This rule adds, updates, or removes the following title of materials incorporated by references :

	Second Incorporation
Official Title of Materials Incorporated (from title page)	Controlled Therapeutic Medication Schedule for Horses
Publisher	Utah Department of Agriculture and Food
Date Issued	June 22, 2020

C) This rule adds, updates, or removes the following title of materials incorporated by references :	
	Third Incorporation
Official Title of Materials Incorporated (from title page)	Recommended Penalties for Doping or Equine Endangerment Violations
Publisher	Utah Department of Agriculture and Food
Date Issued	June 22, 2020

D) This rule adds, updates, or removes the following title of materials incorporated by references :	
	Fourth Incorporation
Official Title of Materials Incorporated (from title page)	2019-08 Recommended Penalties by Substance
Publisher	Utah Department of Agriculture and Food
Date Issued	August 2019
Issue, or version	June 22, 2020

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	07/31/2020
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10. This rule change MAY become effective on:	08/07/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	R. Logan Wilde, Commissioner	Date:	06/09/2020
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**R52. Agriculture and Food, Horse Racing Commission (Utah).
R52-7. Horse Racing.
R52-7-8. Veterinarian Practices, Medication and Testing Procedures.**

~~1. Veterinary Practices Treatment Restricted. Within the time period of 24 hours prior to the post time for the first race of the week until four hours after the last race of the week, no person other than Utah licensed veterinarians or animal technicians under direct supervision of a licensed veterinarian who have obtained a license from the Commission shall administer to any horse within the enclosure any veterinary treatment or any medicine, medication, or other substance recognized as a medication, except for recognized feed supplements or oral tonics or substances approved by the Official Veterinarian.~~

~~2. Veterinarians Under Supervision Of Official Veterinarian. Veterinarians licensed by the Commission and practicing at an authorized meeting are under the supervision of the Official Veterinarian and the Stewards. The Official Veterinarian shall recommend to the Stewards or the Commission the discipline to be imposed upon a veterinarian who violates the Rules, and he or she may sit with the Stewards in any hearing before the Stewards concerning such discipline or violation.~~

~~3. Veterinarian Report. Every veterinarian who treats any horse within the enclosure for any contagious or communicable disease shall immediately report to the official veterinarian in writing on a form approved by the Commission. The form shall include the name and location of the horse treated, the name of the trainer, the time of treatment, the probable diagnosis, and the medication administered. Each practicing veterinarian shall be responsible for maintaining treatment records on all horses to which they administer treatment during a given race meeting. These records shall be available to the Commission upon subpoena when required. Any such record and any report of treatment as described above is confidential, and its content shall not be disclosed except in a proceeding before the stewards or the Commission, or in the exercise of the Commission's jurisdiction.~~

~~4. Drugs Or Medication. Except as authorized by the provisions of this Article, no drug or medication shall be administered to any horse prior to or during any race. Presence of any drug or its metabolites or analogs, or any substance foreign to the natural horse found in the testing sample of a horse participating in a Commission sanctioned race which are outside of the approved drug threshold levels set forth by California Horse Racing Board (CHRB) Rule No. 1844 (Effective 02/14/12), Authorized Medication, with sections (h)(2),(e)(9) and (f) exempted, hereby incorporated by reference, shall result in disqualification by the Stewards. Accordingly clenbuterol will be treated the same as all other drugs that are not specifically authorized. If the testing laboratory detects clenbuterol or its metabolites or analogs under the laboratory's standard operating procedures, the finding will be reported as a violation. When a horse is disqualified because of an infraction of this Rule, the owner or owners of such horse shall not participate in any portion of the purse or stakes; and any trophy or other award shall be returned. (See Drugs and Medications Exceptions, Section R67-7-13.)~~

~~5. Racing Soundness Examination. Each horse entered to race may be subject to a veterinary examination by the official veterinarian or his authorized representative for racing soundness and health on race day.~~

~~6. Positive Lab Reports. A finding by a licensed laboratory that a test sample taken from a horse contains a drug or its metabolites or analog, or any substance foreign to the natural horse shall be prima~~

facie evidence that such has been administered to the horse either internally or externally in violation of these rules. It is presumed that the sample of urine, saliva, blood or other acceptable specimen tested by the approved laboratory to which it is sent is taken from the horse in question; its integrity is preserved; that all procedures of same collection and preservation, transfer to the laboratory, and analyses of the sample are correct and accurate; and that the report received from the laboratory pertains to the sample taken from the horse in question and correctly reflects the condition of the horse during the race in which he was entered, with the burden on the trainer, assistant trainer or other responsible party to prove otherwise at any hearing in regard to the matter conducted by the stewards or the Commission.

7. Intent Of Medication Rules. It shall be the intent of these rules to protect the integrity of horse racing, to guard the health of the horse, and to safeguard the interests of the public and the racing participants through the prohibition or control of all drugs, medication, and substances foreign to the natural horse.

8. Power To Have Tested. As a safeguard against the use of drugs, medication, and substances foreign to the natural horse, a urine or other acceptable sample shall be taken under the direction of the official veterinarian from the winner of every race and from such other horses as the stewards or the Commission may designate.

9. Pre Race Testing. The stewards may require any horse entered to race to submit to a blood or other pre race test, and no horse is eligible to start in a race until the owner or trainer complies with the required testing procedure.

10. Equipment For Official Testing. Organizations shall provide the equipment, necessary supplies and services prescribed by the Commission and the official veterinarian for the taking of or administration of blood, urine, saliva or other tests.

11. Taking Of Samples. Blood, urine, saliva or other samples shall be taken under the direction of the official veterinarian or persons appointed or assigned by the official veterinarian for taking samples. All samples shall be taken in a detention area approved by the Commission, unless the Official Veterinarian approves otherwise. The taking of any test samples shall be witnessed, confirmed or acknowledged by the trainer of the horse being tested or his authorized representative or employee, and may be witnessed by the owner, trainer, or other licensed person designated by them. Samples shall be sent to racing laboratories approved and designated by the Commission, in such manner as the Commission or its designee may direct. All required samples shall be in the custody of the official veterinarian, his/her assistants or other persons approved by the official veterinarian from the time they are taken until they are delivered for shipment to the testing laboratory. No person shall tamper with, adulterate, add to, break the seal of, remove or otherwise attempt to so alter or violate any sample required to be taken by this Article, except for the addition of preservatives or substances necessarily added by the Commission-approved laboratory for preservation of the sample or in the process of analysis.

The Commission has the authority to direct the approved laboratory to retain and preserve samples for future analysis.

The fact that purse money has been distributed prior to the issuance of a laboratory report shall not be deemed a finding that no chemical substance has been administered in violation of these Rules to the horse earning such purse money.

12. Laboratories Approved By The Commission. Only laboratories approved by the Commission may be used in obtaining analysis reports on urine, or other specimens, taken from the winners or other designated horses of each race meeting. The Commission

and the Board of Stewards shall receive reports directly from the laboratory.

13. Split Samples. As determined by the official veterinarian, when sample quantity permits, each test sample shall be divided into two portions so that one portion shall be used for the initial testing for unknown substances. If the Trainer or owner so requests in writing to the stewards within 48 hours of notice of positive lab report on the test sample of his horse, the second sample shall be sent for further testing to a drug testing laboratory designated and approved by the commission. Nothing in this rule shall prevent the commission or executive director from ordering first use of both sample portions for testing purposes. The results of said split sampling may not prevent the disqualification of the horse as per R52-7-8-4 and R52-7-8-6. All costs for transportation and testing of the second sample portion shall be the responsibility of the requesting person. The official veterinarian shall have overall supervision and responsibility for the freezing, storage and safeguarding of the second sample portion.

14. Facilitating The Taking Of Urine Samples. When a horse has been in the test barn more than 1 1/2 hours, a diuretic may be administered by the Official Veterinarian for the purpose of facilitating the collection of a urine sample with permission of the stewards and the trainer or the trainer's authorized test barn representative. The cost of administration of the diuretic is the responsibility of the trainer. Prior to the administration of a diuretic, a blood sample may be taken from the horse.

15. Postmortem Examination. Every horse which dies or suffers a breakdown on the racetrack in training or in competition within any enclosure licensed by the Commission and is destroyed, may undergo, at a time and place acceptable to the official veterinarian, a postmortem examination to the extent reasonably necessary to determine the injury or sickness which resulted in euthanasia or natural death. Any other horse which expires within any enclosure may be required by the official veterinarian to undergo a postmortem examination.

A. The postmortem examination required under this rule will be conducted by a licensed veterinarian employed by the owner or his trainer in consultation with the official veterinarian, who may be present at such postmortem examination.

B. Test samples may be obtained from the carcass upon which the postmortem examination is conducted and shall be sent to a laboratory approved by the Commission for testing for foreign substances or their metabolites and natural substances at abnormal levels. When practical, samples shall be procured prior to euthanasia.

C. The owner of the deceased horse shall make payment of any charges due the veterinarian employed by him to conduct the postmortem examination.

D. A record of such postmortem shall be filed with the official veterinarian by the owner's veterinarian within 72 hours of the death and shall be submitted on a form supplied by the Commission.

E. Each owner and trainer accepts the responsibility for the postmortem examination provided herein as a requisite for maintaining the occupation license issued by the Commission. 1. Veterinarians under the authority of the Official Veterinarian. Veterinarians licensed by the Commission and practicing at any location under the jurisdiction of the Commission are under the authority of the Official Veterinarian and the Stewards. The Official Veterinarian shall:

A. recommend to the Stewards or the Commission, the discipline that may be imposed upon a veterinarian who violates the rules; and

NOTICES OF PROPOSED RULES

B. sit with the Stewards in any hearing before the Stewards in any administrative process for discipline or violation against a veterinarian.

2. Physical inspection and assessment of racing condition. Any horse entered to participate in an official race shall be subjected to a veterinary inspection prior to starting in the race.

A. The inspection shall be conducted by the Official Veterinarian or the racing veterinarian.

B. The trainer of each horse or their representative must present the horse for inspection as required by the examining veterinarian.

C. Each horse presented for examination must have clean legs, including removal of any bandages.

D. Prior to examination, a horse may not be placed in ice, nor shall any device or substance be applied that impedes veterinary clinical assessment.

E. The Official Veterinarian or the racing veterinarian shall maintain a permanent continuing health and racing soundness record of each horse inspected.

F. The Official Veterinarian or the racing veterinarian are authorized access to any horses housed on association grounds regardless of entry status.

G. The veterinarian will recommend to the Stewards the horse be scratched, if, prior to starting:

i. a horse is determined to be unfit for competition; or

ii. if the veterinarian is unable to make a determination of racing soundness.

H. Horses scratched upon the recommendation of the Official Veterinarian or the racing veterinarian are to be placed on a list maintained by the Official Veterinarian.

3. Appropriate role of veterinarians. The following limitations apply to drug treatments of horses that are engaged in activities, including training, related to competing in Utah Horse Racing Commission sanctioned race meets.

A. No drug may be administered except in the context of a valid relationship between an attending veterinarian, the horse owner, who may be represented by the trainer or other agent, and the horse. No drug or prescription drug may be administered without a veterinarian having examined the horse and provided the treatment recommendation. The relationship requires the following:

i. the veterinarian, with the consent of the owner, has accepted responsibility for making medical judgments about the health of the horse;

ii. after performing an examination, the veterinarian has:

a. sufficient knowledge of the horse to make a preliminary diagnosis of its medical condition;

b. is available, or has made arrangements to oversee treatment outcomes; and

c. maintains the veterinarian-client relationship, and;

iii. the judgment of the veterinarian is independent and not dictated by the trainer or owner of the horse.

B. The trainer and veterinarian are both responsible to ensure compliance with these limitations on drug treatments of horses.

4. Treatment Restrictions. Only licensed trainers, licensed owners, or their designees shall be permitted to authorize veterinary medical treatment of horses under their care, custody, and control at locations under the jurisdiction of the Commission.

5. To administer a prescription or controlled medication, drug, chemical, or other substance, an individual must be:

A. licensed to practice veterinary medicine under the jurisdiction of the Commission; and

B. licensed by the Commission.

C. Subsection (5) does not apply to the administration of an oral substance allowed by the Commission rules if the substance is not banned.

D. Subsection (5) does not apply to a recognized non-injectable nutritional supplement or other supplement approved by a licensed veterinarian or by the official veterinarian.

E. No individual shall possess a hypodermic needle, syringe capable of accepting a needle, or injectable of any kind on association grounds, unless otherwise approved by the Commission.

F. At any location under the jurisdiction of the Commission, a veterinarian may use only a one-time disposable syringe and needle and shall dispose of both in a manner approved by the Commission.

G. If an individual has a medical condition that makes it necessary to have a syringe at any location under the jurisdiction of the Commission, that individual must:

i. request permission of the Stewards and the Commission in writing;

ii. furnish a letter from a licensed physician explaining why it is necessary to have a syringe; and

iii. comply with any conditions and restrictions set by the Stewards and the Commission.

6. Veterinary practices. Private veterinarians shall not have contact with an entered horse 24 hours before the post time of the race in which the horse is scheduled to compete, unless licensed by the Commission and approved by the Official Veterinarian. Any unauthorized contact may result in the horse being scratched from the scheduled race and further disciplinary action by the Stewards.

A. Any horse entered for racing must be present on the grounds five hours prior to the post time of the race they are entered in.

7. Veterinarians' reports. A private veterinarian who treats a racehorse at a facility under the jurisdiction of the Commission shall submit a Veterinarian's Medication Report Form approved by the Commission to the Official Veterinarian or other racing authority designee.

A. The Veterinarian's Medication Report Form shall be signed by the private veterinarian or, when signed electronically, shall be submitted by the private veterinarian.

B. The Veterinarian's Medication Report Form shall be filed by the treating veterinarian immediately following administration or prescription of any medication, drug, substance, or procedure.

C. Disclosure of any report is governed by the Utah Governmental Records Access and Management Act (GRAMA) and is non-public to the extent allowed by GRAMA. Access to a report is limited to the Official Veterinarian and the contents shall not be disclosed except:

i. in the course of an investigation of a possible violation of these rules;

ii. in a proceeding before the Stewards or the Commission exercising Commission authority; or

iii. to the horse trainer or owner of record at the time of treatment.

D. A timely and accurate filing of a Veterinarian's Medication Report Form that is consistent with the analytical results of a positive test may be used as a mitigating factor in determining the nature and extent of a rules violation.

8. Pre-race and post-race testing and reporting to the test barn. The official winning horse and any other horse ordered by the Commission or the Stewards shall be taken to the test barn to have

blood or urine samples taken at the direction of the Official Veterinarian.

A. The Stewards, Commission, or Official Veterinarian may require random testing on a horse at any time a horse is on the grounds under the jurisdiction of the Commission.

B. Unless otherwise directed by the Stewards or Official Veterinarian, a horse that is selected for testing must be taken directly to the test barn. An individual approved by the Commission or a track security guard shall monitor access to the test barn area during and immediately following each racing performance. Any individual entering the test barn area must:

- i. be at least 18 years old;
- ii. be currently licensed by the Commission;
- iii. display their Commission identification badge; and
- iv. have a legitimate reason for being in the test barn area.

C. Sample collection shall be done in accordance with the guidelines and instructions provided by the Official Veterinarian, including the determination of a minimum sample requirement for the primary testing laboratory.

i. If the specimen obtained from a horse is less than the minimum sample requirement, the entire specimen shall be sent to the primary testing laboratory.

ii. If a specimen obtained from a horse is greater than the minimum sample requirement but less than twice that amount, the portion of the sample that is greater than the minimum sample requirement shall be secured as the split sample.

iii. If a specimen obtained from a horse is greater than twice the minimum sample requirement, a portion of the sample approximately equal to the amount provided for the primary testing laboratory shall be secured as the split sample.

iv. Blood samples must be collected at a consistent time, preferably not later than one-hour post-race.

9. Pre-race sampling or testing. The Commission shall adopt standard operating procedures that include:

- A. sampling procedures; and
- B. personnel and notification processes.

10. If a sample taken pre-race is determined to be above the thresholds stated in this rule, the horse shall be scratched.

11. Any owner, trainer, or other licensed designee of the owner or trainer who fails to permit a horse to be tested when requested by an authorized Commission designee shall have that horse scratched.

12. Out-of-competition testing authorized. The Commission may take blood, urine, hair, or other biologic samples from a horse at a reasonable time on any date as authorized by Commission rules

13. The Commission shall own the samples. This rule authorizes only the collection and testing of samples, and does not independently make impermissible the administration to or presence in any horse of any drug or other substance. A race day prohibition or restriction of a substance by a Commission rule is not applicable to an out of competition test unless there is an attempt to race the horse in a manner that violates the rule.

14. Horses eligible to be tested. Any horse that has been engaging in activities related to competing in horse racing in the jurisdiction may be tested. This includes:

- A. horses that are training outside the jurisdiction to participate in racing in the jurisdiction; and
- B. horses that are training in the jurisdiction.

C. Weanlings, yearlings, and horses no longer engaged in horse racing, such as retired broodmares are not eligible to be tested.

D. A horse is presumed eligible for out-of-competition testing if:

i. it is on the grounds at a racetrack or training center under the jurisdiction of the Commission;

ii. it is under the care or control of a trainer licensed by the Commission;

iii. it is owned by an owner licensed by the Commission;

iv. it is entered or nominated to race at a premise licensed by the Commission;

v. it has raced within the previous 12 months at a premise licensed by the Commission; or

vi. it is nominated to a program based on racing in the jurisdiction.

15. Horses shall be selected for sampling by a Commission veterinarian, Executive Director, Equine Medical Director, Steward, Presiding Judge, or a designee of any of the foregoing.

16. Horses may be selected to be tested at random, for cause, or as otherwise determined, at the discretion of the Commission, and the Commission need not provide advance notice before arriving at any location, whether or not licensed by the Commission, to collect samples.

17. The trainer, owner, or their designee shall cooperate with the person who takes samples for the Commission, and shall:

A. assist in the immediate location and identification of the horse; and

B. make the horse available as soon as practical upon arrival of the person who is responsible for collecting the samples.

18. A trainer or owner of a horse that has been notified that a written report from a primary laboratory states that a prohibited substance was found in a specimen obtained under these rules, may request that a split sample, corresponding to the portion of the specimen tested by the primary laboratory, be sent to another laboratory approved by the Commission.

A. The request must be made in writing and delivered to the Stewards not later than three business days after the Stewards receive written notice of the findings of the primary laboratory. Any split sample requested must be shipped within an additional 48 hours. The owner or trainer requesting testing of a split sample shall be responsible for the cost of shipping and testing.

B. Failure of the owner, trainer or designee to appear at the time and place designated by the Official Veterinarian shall constitute a waiver of rights to split sample testing.

C. Prior to shipment, the Commission shall confirm the split sample laboratory's willingness to simultaneously:

i. provide the testing requested;

ii. send results to both the person requesting the testing and the Commission; and;

iii. make arrangements for payment satisfactory to the split sample laboratory.

D. If a reference laboratory will accept split samples, that laboratory must be included among the laboratories approved for split sample testing.

19. Storage and shipment of split samples. Split samples obtained in accordance with this rule shall be secured and available for further testing in accordance with the following procedures.

A. A split sample shall be secured in the test barn in the same manner as the portion of the specimen shipped to a primary laboratory until specimens are packed and secured for shipment to the primary laboratory. Any evidence of a malfunction of a split sample freezer or samples that are not in a frozen condition during storage shall be documented in the log and immediately reported to the Official Veterinarian or a designated Commission representative.

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B. Split samples shall then be transferred to a freezer at a secure location approved by the Commission that must meet the following requirements:

i. the freezer shall have two hasps or other devices providing for use of two independent locks;

ii. one lock shall be the property of the Commission; and

iii. one lock shall be the property of a representative of the group representing a majority of the horsemen at a race meeting.

C. The locks shall be closed and locked to prevent access, except as provided by these rules.

D. A freezer for storage of split samples shall only be opened under the following circumstances:

i. to deposit or remove split samples; or

ii. to inventory, or check the condition of samples.

E. When a freezer used for storage of split samples is opened, it shall be attended by both a representative of the Commission and the owner or trainer of the horse, or their designee.

F. A chain of custody log shall be maintained and shall record each time a split sample freezer is opened to:

i. specify each person in attendance;

ii. specify the purpose for opening the freezer;

iii. identify split samples deposited or removed;

iv. specify the date and time the freezer was opened, the time the freezer was closed; and

v. verify that both locks were secured prior to and after opening the freezer.

F. The Commission shall also provide a Split Sample Chain of Custody Verification Form. The form, including any additional information the Official Veterinarian may require, shall be completed during the retrieval, packaging, and shipment of the split sample, specifying:

i. the date and time the sample is removed from the split sample freezer;

ii. the sample number;

iii. the address where the split sample is to be sent;

iv. the name of the carrier and the address where the sample is to be taken for shipment;

v. verification of retrieval of the split sample from the freezer including packaging;

vi. verification of the address of the laboratory on the sample package;

vii. verification of the condition of the sample package immediately prior to transfer of custody to the carrier; and

viii. the date and time custody of the sample is transferred to the carrier.

20. The owner, trainer, or designee shall pack the split sample for shipment in the presence of a representative of the Commission, in accordance with the packaging procedures recommended by the Commission.

21. Laboratory minimum standards. Laboratories conducting either primary or split post-race sample analysis must meet at least the following minimum standards.

A. The laboratory must be accredited by an accrediting body designated by the Association of Racing Commissioners International to standards set forth and required by the Commission

B. A testing laboratory must:

i. have, or have access to, LC/MS instrumentation for screening or confirmation purposes; and

ii. be able to meet minimum standards of detection, which are defined as:

iii. the specific concentration at which a laboratory is expected to detect the presence of a particular substance or metabolite; or

iv. by the adoption of a regulatory threshold.

22. Postmortem examinations. The Commission may require a postmortem examination of any horse that dies or is euthanized on association grounds.

A. If a postmortem examination is to be conducted, the Commission or its representative shall take possession of the horse upon death for postmortem examination.

i. All shoes and equipment on the horse's legs shall be left on the horse.

B. If a postmortem examination is to be conducted, the Commission or its representative shall collect blood, urine, bodily fluids, or other biologic specimens immediately, if possible before euthanasia.

i. The Commission may submit blood, urine, bodily fluids, or other biologic specimens collected during a postmortem examination for analysis.

C. The presence of a prohibited substance in a specimen collected during the postmortem examination may constitute a violation.

D. All licensees shall be required to comply with postmortem examination requirements as a condition of licensure.

E. In proceeding with a postmortem examination, the Commission or its designee shall coordinate with the owner or the owner's agent to determine and address any insurance requirements.

F. The owner of the deceased horse shall make payment of any charges due the Official Veterinarian or a licensed veterinarian employed to conduct the postmortem examination.

G. If any licensed veterinarian other than the Official Veterinarian or his designee performs a postmortem examination, the veterinarian shall submit the record of the postmortem examination to the Official Veterinarian within 72 hours of the examination.

R52-7-13. [Drugs and Medication Exceptions and Illegal Practices] Prohibited Practices.

[1. Horses Tested. The winner of every race and such other horses as the stewards or commission veterinarian may designate shall be escorted by the veterinarian assistant after the race to the testing enclosure for examination by the authorized representative of the Commission and the taking of specimens shall be by the commission veterinarian or his assistant.

2. Trainer Present at Testing. The trainer, or his authorized representative, must be present in the testing enclosure when a urine or other specimen is taken from a horse, the sample tag attached to the specimen shall be signed by the trainer or his representative, as witness of taking of the specimen. Willful failure to be present at or a refusal to allow the taking of the specimen, or any act or threat to impede or prevent or otherwise interfere therewith, shall subject the person or persons doing so to immediate suspension and fine by the stewards and the matter shall be referred to the Commission for such further penalty as may be determined.

3. Specimens Delivered to Laboratory. All specimens taken by or under the direction of the commission veterinarian, or other authorized representative of the Commission, shall be delivered to the laboratory approved by the Commission for official analysis. Each specimen shall be marked by number and date and may also bear such information as may be essential to its proper analysis; but the identity of the horse from the specimen was taken or the identity of its owner, trainer, jockey or stable shall not be revealed to the laboratory. The container of specimen shall be sealed as soon as the

specimen is placed therein and shall bear the name of the Commission.

~~4. Medication. The commission veterinarian, the Commission or any member of the Board of Stewards may take samples of any medicines or other materials suspected of containing improper medication, drugs or chemicals which would affect the racing conditions of a horse in a race and which may be found in stables or elsewhere on race track grounds or in the possession of such tracks or any person connected with racing and the same shall be delivered to the laboratory designated by the Commission.~~

~~5. The Only Non Steroidal Anti Inflammatory Drug Permitted. Phenylbutazone shall be administered to the horse no later than 24 hours prior to the time the horse is scheduled to race.~~

~~6. Phenylbutazone Levels Permitted and Penalty. No urine sample taken from a horse shall exceed 165 micrograms of phenylbutazone or its metabolites per milliliter of urine or shall not exceed 5 micrograms per milliliter of blood plasma. On a first violation period at phenylbutazone concentrations above 5 ug/ml but below 10 ug/ml plasma or serum: a minimum fine of \$250.00; at concentrations above 10 ug/ml plasma: a fine of up to \$500.00.~~

~~On a second violation within a 12 month period at phenylbutazone concentrations above 5 ug/ml but below 10 ug/ml plasma or serum: a minimum fine of \$500.00; at concentrations above 10 ug/ml plasma: a fine of up to \$1,000.00.~~

~~On a third or subsequent violation within a 12 month period: a fine of \$1,000.00, a suspension of 30 days, and loss of purse.~~

~~7. Administered under Direction of Commission Licensed Veterinarian. Phenylbutazone must be administered under the direction of a commission licensed veterinarian.~~

~~8. List Provided. Horses which are on phenylbutazone shall not be indicated on the daily racing programs or any other publications except that a list of horses on phenylbutazone will be kept by the stewards.~~

~~9. Lasix Treatment. Any horse which exhibits symptoms of Epistaxis and/or respiratory tract hemorrhage is eligible for placement on the bleeder list and for treatment on race days with the approved medication to prevent or limit bleeding during racing.~~

~~10. Bleeders Listing. To be placed on the bleeders list, a horse must be found to have, during or immediately following a race or workout, shed free blood from one or both nostrils or bled internally in the respiratory tract. A Commission licensed veterinarian, following his or her personal examination of a horse, or after consulting with the horses' private veterinarian, shall be allowed to certify a horse as a bleeder. A universal bleeders certificate is required.~~

~~11. License Required. In any and all cases, private veterinarians must be licensed with the Utah Horse Racing Commission as a veterinarian in order to administer Lasix.~~

~~12. Horse Removed From Bleeders List. A Commission licensed veterinarian may remove a horse from the bleeders list, provided a request is made in writing and it is the recommendation of the veterinarian of the horse, or after an examination by the veterinarian, it is determined that the horse is not a bleeder or is no longer eligible for the bleeders list.~~

~~13. Treatment Procedure. Horses on the bleeders list must be treated at least four hours prior to post time with the bleeder medication furosemide, (i.e. Lasix). No other treatment is permitted for bleeder treatment. Bleeder medication must be administered by a licensed veterinarian or trainer in the manner approved by the official veterinarian, using dosages pursuant to CHRB Rule No. 1845, section (e), (Effective 5/27/05), Authorized Bleeder Medication, which is hereby incorporated by reference. Trainers are~~

required to have Lasix forms completed by the veterinarian, the Lasix form must be returned to the test barn personnel within ten minutes of the time of administration of Lasix. The form shall include the date, time and amount of Lasix administered and the signature of the veterinarian. Upon receipt of the Lasix form, the test barn personnel shall log in the date and time of receipt. If the time of receipt exceeds the ten minute grace period, the test barn personnel shall notify the stewards, and the horse shall be scratched by the stewards for the day's racing.

~~14. Lasix Levels Permitted and Penalty. Any horse whose post race blood tests contains a level in excess of the levels set forth in CHRB Rule No. 1845, sections (b) (c), (Effective 5/27/05), Authorized Bleeder Medication, hereby incorporated by reference, will be said to be positive for Lasix overage and in violation of Utah Horse Racing Rules and Regulations.~~

~~A. A finding of a chemist of furosemide (Lasix) exceeding the allowable test levels given above shall be considered prima facie evidence that the medication was administered to the horse and carried in the body of the horse while participating in the race.~~

~~B. In these cases, a fine and/or suspension will be levied to such horse trainer under the trainer responsibility rule and the horse will be disqualified from the race.~~

~~15. Horses Designated. The horses' trainer or designated agent is responsible to enter horses correctly indicating the prescribed medication for the horse. Horses approved for Lasix medication will be designated on the overnight and the daily program with a Lasix or "L". A list of horses approved for and using Lasix medication will be maintained by the stewards.~~

~~16. Bleeder Disqualification. Any horse that bleeds a second time in Utah shall not be able to race for a period of 30 days from the date of the second bleeding offense. Any horse that bleeds for a third time shall be suspended from racing for a period of one year from the date of the third offense. Any horse bleeding for the fourth time will be given a lifetime suspension from racing.~~

~~17. Disqualification of Owner or Trainer. A horse owner or trainer found to have committed illegal practices under this chapter or found to have administered any non approved medication substances in violation of the rules in this chapter, shall be deemed disqualified and denied, or shall promptly return, any portion of the purse or sweepstakes or trophy awarded in the affected race, and shall be distributed as in the case of a disqualification. If the affected race is a qualifying race for a subsequent race and if a horse shall be so disqualified, the eligibility of the other horses which ran in the affected race, and which have started in the subsequent race before announcement of such disqualification shall not in any way be affected.~~

~~18. Hypodermic Instruments Prohibited. Except by specific written permission of the presiding steward, no person within the grounds of the racing association where the horses are lodged or kept shall have possession of, upon the premises which he occupies or has the right to occupy or in any of his personal property or effects, any hypodermic instrument, hypodermic syringes or hypodermic needle which may be used for injection into any horse of any medication prohibited by this rule. Every racing association is required to use all reasonable efforts to prevent the violation of this rule.~~

~~19. Search Provisions. Every racing association, the Commission or the stewards shall have the right to enter, search and inspect the buildings, stables, rooms and other places where horses which are eligible to race are kept, or where property and effects of the licensee are kept within the grounds of the association. Any licensee accepting a license shall be deemed to have consented to~~

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such search and to the seizure of any non approved or prohibited materials, chemicals, drugs or devices and anything apparently intended to be used in connection therewith.

20. Daily Medication Reports. All practicing veterinarians must submit daily to the commission veterinarian a medication report form furnished by the Commission containing the following:

- A. Name, age, sex and breed of the horse.
- B. The permitted drug used (Bute or Lasix).
- C. The time administered.
- D. The route of the administration.
- E. The report must be dated and signed by the veterinarian so administering the medication. Any such report is confidential and its contents shall not be disclosed except in a proceeding before the stewards or the Commission or in the exercise of the Commission's jurisdiction.

21. Prima Facia Evidence. If the stewards find that any non approved medication, for which the purpose of definition shall include any drug, chemical, narcotic, anesthetic, or analgesic has been administered to a horse in such a manner that it is present in a pre-race or post-race test sample, such presence shall constitute prima facia evidence that the horse has been illegally medicated.

22. Trainer Responsibility. Under all circumstances, the horse of record trainer shall be responsible for the horse he trains. 1. No person may possess or use a drug, substance, or medication on the premises of a facility under the jurisdiction of the Commission if:

- A. a recognized analytical method has not been developed to detect and confirm the administration of the substance;
- B. the use of the substance may endanger the health or welfare of the horse or endanger the safety of the rider;
- C. the use of the substance may adversely affect the integrity of racing; or
- D. no generally accepted use of the substance in equine care exists.

2. Prohibited substances and methods. The Commission incorporates by reference, a list of prohibited substances and methods of administration contained in the following matrices maintained by the department: Annex I: Prohibited Substances, and Controlled Therapeutic Medication Schedule for Horses.

A. The substances and methods listed in the Prohibited List may not be used, and may not be possessed on the premises of a racing or training facility under the jurisdiction of the Commission, except as a restricted therapeutic use.

B. The equipment and supplies necessary for official testing, shall be provided by the organization.

3. Restricted therapeutic use. A limited number of medications on the Prohibited List may be exempted when administration occurs in compliance with required conditions for restricted therapeutic use. The use of the substance must comply with the rules of the Commission.

4. The possession or use of the following substances or of blood doping agents, including those listed below, on the premises of a facility under the jurisdiction of the Commission is forbidden:

- A. Aminoimidazole carboxamide ribonucleotide (AICAR);
- B. Darbepoetin;
- C. Equine Growth Hormone;
- D. Erythropietin;
- E. Hemopure, registered trademark;
- F. Myo-Inositol Trispyrophosphate (ITPP);
- G. Oxyglobin, registered trademark;
- H. Thymosin beta;
- I. Venoms or its derivatives; or

J. Thymosin beta.

5. Other prohibited substances. Substances in the categories below shall be strictly prohibited unless otherwise provided in accordance with state law or Commission rule including:

- A. a pharmacologic substance that is not approved by any governmental regulatory health authority for human or veterinary use within the jurisdiction, including:
 - i. a drug under pre-clinical or clinical development;
 - ii. a discontinued drug; or
 - iii. a designer drug.
 - a. A designer drug is a synthetic analog of a drug that has been altered in a manner that may reduce its detection.

b. Designer drugs do not include:

- I. vitamins, herbs, and supplements used for nutritional purposes that do not contain any other prohibited substance; or
- II. the administration of a substance with the prior approval of the Commission in a clinical trial for which an FDA or similar exemption has been obtained;

B. anabolic agents and Anabolic Androgenic Steroids (AAS);

C. peptide hormones, growth factors, and related substances including any substance with similar chemical structure or similar biological effects;

D. beta-2 agonists, including optical isomers, including d- and l-, where relevant;

E. hormone and metabolic modulators; or

F. diuretics and other masking agents, including substances with similar chemical structure or similar biological effects.

6. Prohibited methods of manipulation of blood and blood components include:

A. the administration or reintroduction of any quantity of autologous, allogenic, or heterologous blood or red blood cell products of any origin into the circulatory system;

B. artificially enhancing the uptake, transport, or delivery of oxygen, including perfluorochemicals, efaproxiral (RSR13), and modified hemoglobin products, e.g. hemoglobin-based blood substitutes, microencapsulated hemoglobin products, excluding supplemental oxygen; or

C. tampering, or attempting to tamper, to alter the integrity and validity of samples collected by authority of the Commission. Tampering methods include blood serum or urine substitution or adulteration, e.g., proteases.

7. Any reference to substances in R52-7-13 does not alter the requirements for testing concentrations in race day samples or the requirements of post-race testing.

A. If laboratory testing detects any prohibited substance identified by this rule, the finding shall be reported as a violation. Upon a finding of violation, the horse shall be disqualified, and the owner of the horse shall not participate in any portion of the purse, stakes, trophy, or any other award.

B. Any purse, stakes, trophy, or award shall be returned if it was presented to the owner of the horse, upon the finding of a violation of this section.

C. Any positive test for a prohibited drug, medication, or substance, including permitted medication in excess of the maximum allowable concentration, as reported by a Commission-approved laboratory, is prima facie evidence of a violation of this rule.

D. It is presumed that any sample or accepted specimen tested by an approved laboratory is from the horse in question. With regard to an accepted sample, It is also presumed that:

- i. the integrity of the sample is preserved;

ii. any procedures, collection, preservation, and analysis of the sample are correct and accurate; and
 iii. it is the burden of the owner, trainer, assistant trainer, or other responsible party to prove by substantial evidence to the contrary in the matter to the administrative Stewards or at the Commission hearing.

8. Penalties. Upon finding a violation of these medications and prohibited substances rules, the Stewards shall:

A. consider the classification level of the violation as listed at the time in the Uniform Classification Guidelines of Foreign Substances, as promulgated in the following penalty matrices maintained by the department that are incorporated by reference: Recommended Penalties for Doping or Equine Endangerment Violations, and 2019-08 Recommended Penalties by Substances.

B. impose penalties and disciplinary measures consistent with the recommendations contained therein; and

C. consult with the Official Veterinarian to determine if the violation was a result of the administration of a therapeutic medication as documented in a veterinarian's Medication Report Form received, pursuant to Subsection R52-7-8(7).

9. The Stewards may also consult with the laboratory director or other individuals to determine the seriousness of the laboratory finding or the medication violation. Penalties for all medication and drug violations shall be investigated and reviewed on a case by case basis.

A. Extenuating factors the Stewards may consider in determining penalties include:

i. the past record of the trainer, veterinarian and owner in drug cases;

ii. the potential of the drug to influence a horse's racing performance;

iii. the legal availability of the drug;

iv. whether the responsible party knew or should have known of the administration of the drug, or intentionally administered the drug;

v. the steps taken by the trainer to safeguard the horse;

vi. the purse of the race; and

vii. whether the licensed trainer was acting on the advice of a licensed veterinarian.

10. As a result of an investigation, there may be mitigating circumstances for which a lesser or no penalty is appropriate for the licensee, or aggravating factors that may increase the penalty beyond the minimum.

KEY: horses, horse racing

Date of Enactment or Last Substantive Amendment: ~~July 22, 2019~~ 2020

Notice of Continuation: August 25, 2016

Authorizing, and Implemented or Interpreted Law: 4-38-4

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R68-26	Filing No. 52822
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Agency Information

1. Department:	Agriculture and Food
Agency:	Plant Industry
Street address:	350 N Redwood Road

City, state:	Salt Lake City, UT 84115	
Mailing address:	PO Box 146500	
City, state, zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	801-982-2204	ambermbrown@utah.gov
Cody James	801-982-2376	codyjames@utah.gov
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R68-26. Industrial Hemp Product Registration and Labeling
3. Purpose of the new rule or reason for the change:
This rule change provides clarification to industrial hemp processors and retailers regarding regulation of their products and department requirements. Also, this change makes state rules and federal regulations regarding labeling more consistent.
4. Summary of the new rule or change:
These rule changes provide guidance to industrial hemp processors and retailers regarding definitions, product registration, product testing, and labeling requirements that will make it easier for them to register and sell compliant and safe products to the public. The change is necessary because current labeling requirements put manufacturers in violation of federal law.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
The Department of Agriculture and Food (Department) does not anticipate that these changes will lead to any additional cost or savings to the state budget because the changes do not add any additional inspection requirements for the Department, nor should the changes lead to additional products being registered.
B) Local governments:
The Department does not anticipate any cost or savings to local governments because local governments do not regulate or operate as industrial hemp processors or retailers.

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C) Small businesses ("small business" means a business employing 1-49 persons):

The Department does not anticipate any costs or savings to small businesses as there are no fees or violation changes included in this rule.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

The Department does not anticipate any costs or savings to non-small businesses as there are no fees or violation changes included in this rule.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

No persons other than small businesses, non-small businesses, or local governments will be affected by this rule because they do not produce or regulate product of industrial hemp.

F) Compliance costs for affected persons:

These changes do not include any changes in compliance costs for affected persons.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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

H) Department head approval of regulatory impact analysis:

Commissioner R. Logan Wilde, Utah Department of Agriculture and Food, has reviewed and approved the regulatory impact analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

These rule changes should not have a fiscal impact on businesses but will provide important guidance to businesses that produce industrial hemp products and allow them to label their products in accordance with both state rule and federal law.

B) Name and title of department head commenting on the fiscal impacts:

R. Logan Wilde, Commissioner

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Subsection 4-41-103(4)	Subsection 4-41-403(1)	
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/31/2020

10. This rule change MAY become effective on: 08/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a

Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	R. Logan Wilde, Commissioner	Date:	06/09/2020
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R68. Agriculture and Food, Plant Industry.

R68-26. Industrial Hemp Product Registration and Labeling.

R68-26-1. Authority and Purpose.

1) Pursuant to Subsections 4-41-103(4) and 4-41-403(1), this rule establishes the requirements for labeling and registration of products made from and containing industrial hemp.

R68-26-2. Definitions.

- 1) "CBD" means cannabidiol.
- 2) "Certificate of Analysis" ~~[means a certificate from a third-party laboratory describing the results of the laboratory's testing of a sample.]~~ (COA) means a document produced by a testing laboratory listing the quantities of the various analytes for which testing was performed.
- 3) "Department" means the Utah Department of Agriculture and Food.
- 4) "Industrial Hemp" means any part of a cannabis plant, whether growing or not, with a concentration of less than 0.3% tetrahydrocannabinol by weight.
- 5) "Industrial hemp product" means products derived from, or made by processing industrial hemp plants or plant parts.
- 6) "Label" means the display of ~~[a]~~ each written, printed, or graphic matter upon the immediate container or statement accompanying an industrial hemp product.
- 7) "Manufacturer" means a person who makes any industrial hemp products.
- 8) "Person" means an individual, partnership, association, firm, trust, limited liability company, or corporation or any employees of such.
- 9) "THC" means total composite tetrahydrocannabinol, including delta -9- tetrahydrocannabinol and tetrahydrocannabinolic acid.
- 10) "Third- party laboratory" means a laboratory w~~hich~~ ~~has~~ ^{has} no direct interest in a grower or processor of industrial hemp or industrial hemp products that is capable of performing mandated testing utilizing validated methods.

R68-26-3. Product Registration.

- 1) ~~[A]~~ Each industrial hemp product~~s~~ distributed or available for distribution in Utah shall be officially registered annually with the department.
- 2) Application for registration shall be made to the department on a form provided by the department including the following information:
 - a) the name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicants;
 - b) the name of the product;
 - c) the type and use of the product;~~and~~
 - d) a complete copy of the label ~~[which]~~ ^{as it will appear on the product} ~~provided in a PDF format; and~~

e) if the product has been assigned a National Drug Code in accordance with 21 CFR 207.33, the applicant shall provide the National Drug Code number.

3) If the industrial hemp product being registered contains ~~[CBD]~~ a cannabinoid, the application shall include a certificate of analysis from a third-party laboratory for the product in compliance with Section R68-26-4.

4) A registration fee per product, as set forth in the fee schedule approved by the legislature, shall be paid to the department with the submission of the application.

5) The department may deny registration for incomplete applications.

6) The department may exempt an industrial hemp product that is determined to be adequately regulated by a federal agency.

7) A new registration is required for any of the following:

- a) changes in the industrial hemp product ingredients;
- b) changes to the directions for use; and
- c) a change of name for the product.

8) Other changes shall not require a new registration but the registrant shall submit copies of all label changes to the department as soon as they are effective.

9) The person registering the industrial hemp product is responsible for the accuracy and completeness of ~~[a]~~ information submitted.

10) A registration is renewable for up to a one-~~[]~~ year period with an annual renewal fee per product, which shall be paid on or before June 30th of each year.

11) An industrial hemp product that has been discontinued shall continue to be registered in the state until the product is no longer available for distribution.

12) A late fee shall be assessed for a renewal of an industrial hemp product registration submitted after June 30th and shall be paid before the registration renewal is issued.

13) The department shall not register an industrial hemp product containing a cannabinoid if the product:

- a) is in an unapproved medicinal dosage form;
- b) uses the cannabinoid as a food additive; or
- c) is represented for use as a conventional food.

R68-26-4. Certificate of Analysis.

1) The certificate of analysis for industrial hemp products containing ~~[CBD]~~ a cannabinoid shall be tested for ~~[include the following test results]:~~

- a) the cannabinoid profile by percentage of dry weight;
- b) solvents;
- c) pesticides;
- d) microbials; and
- e) heavy metals.

2) The test results required in Subsection R68-26-4(1) shall be reported in accordance with the requirements for a cannabinoid product in Rule R68-29 including the specified units of measure.

[2]3) The certificate of analysis shall include the following information:

- a) the batch identification number;
- b) the date received;
- c) the date of completion;~~and~~
- d) the method of analysis for each test conducted~~[-]; and~~
- e) a picture of the product in its final form.

4) Testing shall be conducted on the product in its final form.

R68-26-5. Label Requirements.

1) Industrial hemp products containing ~~[CBD]~~a cannabinoid produced for oral human consumption shall be labeled in accordance with 21 CFR 101.1, 21 CFR 101.2, 21 CFR 101.3, 21 CFR 101.4, 21 CFR 101.5, 21 CFR 101.7, 21 CFR 101.9(j)(13), 21 CFR 101.9(j)(17), 21 CFR 101.15, and 21 CFR 101.36~~[-];~~

a) a label may contain the term "product facts" in place of "supplement facts" provided the information required in 21 CFR 101.36 is on the label; and

b) the label shall include the following text, prominently displayed: This product has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.

2) A cannabinoid product intended to be vaporized for inhalation shall:

a) be labeled in accordance with Subsection R68-26-5(1); or

b) be labeled in accordance with 21 CFR 101.1, 21 CFR 101.2, 21 CFR 101.3, 21 CFR 101.4, 21 CFR 101.5, 21 CFR 101.7, 21 CFR 101.5, 101.15, and contain the following text, prominently displayed: "This product has not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease."

~~[2]~~3) Industrial hemp products containing a cannabinoid produced for absorption by humans shall be labeled;

a) in accordance with 21 CFR 701, Cosmetic Labeling; and~~[21 CFR 740, Cosmetic Product Warning Statements.]~~

b) contain the following text, prominently displayed: "Warning - The safety of this product has not been determined."

4) Notwithstanding R68-26-5(1) or (3), an industrial hemp product containing a cannabinoid produced for human use that has a National Drug Code issued shall be labeled in accordance with 21 CFR 201.66.

~~[3]~~5) In addition to the requirements of Subsections R68-26-5(1) and (2), and through R68-26-5(3) an industrial hemp product containing ~~[CBD]~~a cannabinoid shall have on the label a scannable bar[-]code, QR code, or web address linked to a document containing the following information:

- a) the batch identification number;
- b) the product name;
- c) the batch date;
- d) an expiration date;
- e) the batch size;
- f) the total quantity produced; and
- g) a downloadable link for a certificate of analysis for the batch identified.

~~[4]~~6) Industrial hemp products shall not contain medical claims on the label unless the product has been registered with the FDA and is labeled in accordance with Subsection R68-26-5(4).

~~[5]~~7) Industrial hemp products ~~[which]~~that do not contain ~~[CBD]~~a cannabinoid intended for human consumption shall be labeled in accordance with 21 CFR 101, Food Labeling.

~~[6]~~8) Industrial hemp products ~~[which]~~that do not contain ~~[CBD]~~a cannabinoid intended for human absorption shall be labeled in accordance with 21 CFR 701, Cosmetic Labeling and 21 CFR 740, Cosmetic Product Warnings Statements.

~~[7]~~9) Industrial hemp products meant for animal consumption shall be labeled and comply with ~~[all]~~applicable federal laws and regulations and ~~[all]~~other applicable state laws and regulations.

~~[8]~~10) Industrial hemp seed products intended for cultivation shall be labeled in accordance with Title 4, Chapter 16, Utah Seed Act.

~~[9]~~11) ~~[All]~~Each industrial hemp product[s] shall comply with the federal Food Drug and Cosmetic Act, 21 U.S.C. Chapter 9 and other applicable federal laws and regulations and ~~[all]~~applicable state laws and regulations relating to the labeling of food, cosmetics, and fiber.

R68-26-6. Inspection and Testing.

1) The department shall conduct randomized inspection of industrial hemp products distributed or available for distribution in the state for compliance with this rule.

2) The department shall periodically sample, analyze, and test industrial hemp products distributed within the state for compliance with registration and labeling requirements and the certificate of analysis, if applicable.

3) The department may conduct inspection of industrial hemp products distributed or available for distribution for any reason the department deems necessary.

4) The sample taken by the department shall be the official sample.

R68-26-7. Retailer Responsibilities.

1) A retailer shall:

a) ensure that any industrial hemp product is labeled correctly; and

b) ensure that all industrial hemp products sold are properly registered with the department.

2) Retailers shall provide the identity of the manufacturer of industrial hemp products sold upon request of the department.

3) A retailer may register the product in lieu of the manufacturer if the product is not registered.

R68-26-8. Violation.

1) Each improperly labeled industrial hemp product shall be a separate violation of this rule.

2) Industrial hemp products not meeting the ~~[label]~~labeling requirements shall be deemed to be misbranded.

3) Industrial hemp products shall be considered falsely advertised if it does not meet the labeling requirements of this rule.

4) It is a violation to distribute or market ~~[and] an~~an ~~[industrial]~~industrial hemp ~~[products]~~product that is not registered with the department.

5) It is a violation to distribute or market an industrial hemp product that contains greater than 0.3% THC.

6) It is a violation to distribute or market an industrial hemp product containing ~~[CBD]~~a cannabinoid ~~[which]~~that is not in a medical dosage form.

7) It is a violation to distribute or market an industrial hemp product containing a cannabinoid as a conventional food product.

8) It is a violation to distribute or market a product claiming a cannabinoid derived from industrial hemp as a food additive.

9) The Department shall use a penalty matrix to develop appropriate penalties.

KEY: CBD labeling, CBD products, hemp product registration Date of Enactment or Last Substantive Amendment: ~~[October 31, 2018]~~2020

Authorizing, and Implemented or Interpreted Law: 4-41-403(1); 4-41-402(2); 4-41-103(4)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R68-28	Filing No. 52813

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
Street address:	350 N Redwood Road	
City, state:	Salt Lake City, UT 84115	
Mailing address:	PO Box 146500	
City, state, zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	385-245-5222	ambermbrown@utah.gov
Cody James	801-982-2376	codyjames@utah.gov
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R68-28. Cannabis Processing
3. Purpose of the new rule or reason for the change:
These rule changes are needed to ensure that product is ready for the statutory deadline, make it easier for processors to get products ready for sale, and to provide clarifications and definition consistent with statute and other rules governing the cannabis program.
4. Summary of the new rule or change:
These changes add several definitions to the rule, including: cannabis concentrate, cannabis cultivation byproduct, cannabis derivative product, cannabis plant product, and Total THC. These additional definitions provide needed clarity and specificity and are consistent with other rule changes recently filed. The definitions also allow for some simplification of the terminology used in the rule. The changes remove references to purchase of industrial hemp based on statutory changes during the 2020 General Session. The changes clarify the guidelines regarding license expiration and renewal to indicate that licenses are good for one year rather than expire on

December 31st. The change increases the required resolution for security cameras and clarifies lighting requirements and visitor requirements for cannabis processing facilities. The changes adjust labeling requirements to allow slightly smaller font and remove logo limitations (as long as the logo does not obscure information required on the label).

Fiscal Information

5. Aggregate anticipated cost or savings to:												
A) State budget:												
These rule changes clarify an existing rule whose costs have already been determined. There are no costs to state budget associated with these changes.												
B) Local governments:												
These rule changes clarify an existing rule whose costs have already been determined. There are no costs to local governments associated with these changes.												
C) Small businesses ("small business" means a business employing 1-49 persons):												
These rule changes clarify an existing rule whose costs have already been determined. There are no costs to small businesses associated with these changes.												
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):												
These rule changes clarify an existing rule whose costs have already been determined. There are no costs to non-small businesses associated with these changes.												
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):												
No costs to persons other than small businesses, non-small businesses, or state and local governments should result from these changes to the existing rule.												
F) Compliance costs for affected persons:												
These rule changes do not affect compliance costs for affected person.												
G) Regulatory Impact Summary Table (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 will be included in narratives above.)												
Regulatory Impact Table												
<table border="1"> <thead> <tr> <th>Fiscal Cost</th> <th>FY2021</th> <th>FY2022</th> <th>FY2023</th> </tr> </thead> <tbody> <tr> <td>State</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Government</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Fiscal Cost	FY2021	FY2022	FY2023	State	\$0	\$0	\$0	Government			
Fiscal Cost	FY2021	FY2022	FY2023									
State	\$0	\$0	\$0									
Government												

NOTICES OF PROPOSED RULES

Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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

H) Department head approval of regulatory impact analysis:

Commissioner R. Logan Wilde, Utah Department of Agriculture and Food, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

It is expected that these rule changes will reduce the burden on cannabis processors and allow them produce and package products more effectively to get safe high-quality products ready to be sold by the statutory deadline. There should be no fiscal impact associated with these rule changes.

B) Name and title of department head commenting on the fiscal impacts:

R. Logan Wilde, Commissioner

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Subsection 4-41a-103(5)	Subsection 4-41a-404(3)	Subsection 4-41a-801(1)
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Subsection 4-41a-701(3)	Subsection 4-2-103(1)(i)	Subsection 4-41a-405(2)(b)(iv)
Subsection 4-41a-302(3)(b)(ii)		

Public Notice Information

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Agency Authorization Information

Agency head or designee, and title:	R. Logan Wilde, Commissioner	Date:	06/08/2020
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R68. Agriculture and Food, Plant Industry.

R68-28. Cannabis Processing.

R68-28-1. Authority and Purpose.

1) Pursuant to Subsections 4-41a-103(5), 4-41a-302(3)(b)(ii), 4-41a-404(3), 4-41a-405(2)(b)(iv), 4-41a-701(3), 4-41a-801(1), and 4-2-103(1)(i), this rule establishes the application process, qualifications and requirements to obtain and maintain a cannabis processing license.

R68-28-2. Definitions.

1) "Applicant" means any person or business entity who applies for a cannabis processing facility license.

2a) "Cannabis" means any part of a marijuana plant[~~s~~].

b) "[e]Cannabis" does not mean, for the purposes of this rule, industrial hemp.

3) "Batch" means a quantity of:

a) cannabis extract produced on a particular date and time, following clean up until the next clean up during which lots of cannabis are used;

b) cannabis product produced on a particular date and time, following clean up until the next clean up during which cannabis extract is used; or

c) cannabis flower packaged on a particular date and time, following clean up until the next clean up during which lots of cannabis are being used.

4) "Cannabis concentrate" means the product of any chemical or physical process applied to cannabis biomass that concentrates or isolates the cannabinoids contained in the biomass.

[4]5) "Department" means the Utah Department of Agriculture and Food.

[5]6) "Cannabis cultivation facility" means a person that:

- a) possesses cannabis;
- b) grows or intends to grow cannabis; and
- c) sells or intends to sell cannabis to a cannabis cultivation facility or to a cannabis processing facility.

7) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.

8) "Cannabis derivative product" means a product made using cannabis concentrate.

9) "Cannabis plant product" means any portion of a cannabis plant intended to be sold by a medical cannabis pharmacy in a form that is recognizable as a portion of a cannabis plant.

[6]10) "Cannabis processing facility" means a person that:

- a) acquires or intends to acquire cannabis from a cannabis production establishment ~~[or a holder of an industrial hemp processor license under title 4 chapter 41, Hemp and Cannabidiol Act];~~
- b) possesses cannabis with the intent to manufacture a cannabis product;
- c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or a cannabis ~~[extract]~~ concentrate; and
- d) sells or intends to sell a cannabis product to a medical cannabis pharmacy ~~[or the state central fill medical cannabis pharmacy].~~

[7]11) "Cannabis processing facility agent" means an individual who:

- a) is an employee of a cannabis processing facility; and
- b) holds a valid cannabis production establishment agent registration card.

[8]12) "Cannabis production establishment agent registration card" means a registration card that the department issues that:

- a) authorizes an individual to act as a cannabis production establishment agent; and
- b) designates the type of cannabis production establishment for which an individual is authorized to act as an agent.

[9]13) "Lot" means the quantity of:

- a) flower produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or
- b) trim, leaves or other plant matter from cannabis plants produced on a particular date and time, following clean up until the next clean up.

14) "Total THC" means the sum of the determined amounts of delta-9-THC and delta-9-THCA, according to the formula: Total THC = delta-9-THC + (delta-9-THCA x 0.877).

R68-28-3. Cannabis Processing Facility License.

1) A ~~[Tier 1]~~ cannabis processing facility license allows the licensee to receive cannabis from a cannabis production facility ~~[licensed cannabis cultivation facility or to accept THC or THC byproduct from a Utah licensed cannabis processing facility or industrial hemp processor.]~~

2) A Tier 1 cannabis processing facility license allows the licensee to ~~[process, manufacture, dry, cure, package, and label cannabis and cannabis products for sale or transfer to another cannabis processing facility, a medical cannabis pharmacy, or the state central fill medical cannabis pharmacy.]~~

- a) create cannabis concentrate;
- b) create cannabis derivative product; and
- c) package and label final product.

3) A Tier 2 cannabis processing facility license allows the licensee to ~~[receive cannabis from a licensed cannabis cultivation facility or a cannabis processing facility.]~~ package and label cannabis and cannabis final product.

~~[4) A Tier 2 cannabis processing facility allows for the licensee to package and label cannabis and cannabis products for sale or transfer to another cannabis processing facility, a medical cannabis pharmacy, or the state central fill medical cannabis pharmacy.]~~

[5]4) A complete application shall include the required fee, statements, forms, diagrams, operation plans, copy of current Utah manufactured food establishment registration, and other applicable documents required in the application packet to be accepted and processed by the department.

[6]5) Prior to approving an application, the department may contact the applicant and request additional supporting documentation or information.

[7]6) Prior to issuing a license, the department shall inspect the proposed premises to determine if the applicant complies with state laws and rules.

[8]7) Each cannabis processing facility license shall expire ~~[on December 31st]~~ one calendar year from the date of licensure.

[9]8) An application for renewals shall be submitted to the department ~~[by December 1st]~~ 30 days prior to expiration.

[40]9) If the renewal application is not submitted ~~[by December 31st]~~ 30 days prior to the expiration date, the licensee may not continue to operate.

[41]10) A license may not be sold or transferred.

R68-28-4. Cannabis Processing Facility Requirements.

1) A cannabis processing facility operating plan shall contain a blue print of the facility containing the following information:

- a) the square footage of the areas where cannabis is to be extracted;
- b) the square footage of the areas where cannabis or cannabis products are to be packaged and labeled;
- c) the square footage of the areas where cannabis products are manufactured;
- ~~[d) the square footage of the area where cannabis products are packaged or labeled;]~~
- [e]d) the square footage and location of storerooms for cannabis awaiting extraction;
- [f]e) the square footage and location of storerooms for cannabis awaiting further manufacturing;
- [g]f) the area where finished cannabis and cannabis products are stored;
- [h]g) the location of toilet facilities and hand washing facilities;
- [i]h) the location of a break room and location of personal belonging lockers;
- [j]i) the location of the areas to be used for loading and unloading of cannabis and cannabis products; and
- [k]j) the total square footage of the overall cannabis processing facility.

~~2) A cannabis processing facility shall process, manufacture, package, and label cannabis and cannabis products in accordance with 21 CFR 111, "Current Good Manufacturing Practice in Manufacturing, Packaging, Labeling, or Holding Operation for Dietary Supplements".~~

~~3)2) A cannabis processing facility shall have written emergency procedures to be followed in case of:~~

- a) fire;
- b) chemical spill; or
- c) other emergency at the facility.

~~4)3) A cannabis processing facility shall have a written plan to handle potential recall and destruction of cannabis due to contamination.~~

~~5)4) A cannabis processing facility shall use a standardized scale [which]that is registered with the department when cannabis is:~~

- a) packaged for sale by weight;
- b) bought and sold by weight; or
- c) weighed for entry into the inventory control system.

~~6)5) A cannabis processing facility shall compartmentalize [all]each area[s] in the facility based on function and shall limit access between compartments.~~

~~7)6) A cannabis processing facility shall limit access to the compartments to the appropriate agents.~~

~~8)7) A cannabis processing facility creating cannabis [extract]derivative product shall develop standard operating procedures.~~

R68-28-5. Cannabis Extraction Requirements.

1) A cannabis processing facility shall ensure hydrocarbons n-butane, isobutane, propane, or heptane are of at least ninety-nine percent purity.

2) A cannabis processing facility shall use a professional grade closed loop extraction system designed to recover the solvents, work in an environment with proper ventilation, and control [all]each source[s] of ignition where a flammable atmosphere is or may be present.

3) A cannabis processing facility using carbon dioxide (CO₂) gas extraction system shall use a professional grade closed loop CO₂ gas extraction system where [every]each vessel is rated to a minimum of six hundred pounds per square inch and CO₂ shall be at least ninety-nine percent purity.

4) Closed loop systems [for]-hydrocarbon or CO₂ extraction systems shall be commercially manufactured and bear a permanently affixed and visible serial number.

5) A cannabis processing facility using a closed loop system shall, upon request, provide the department with certification from a licensed engineer stating the system is:

- a) safe for its intended use;
- b) commercially manufactured, and
- c) built to [codes of]conform to recognized and generally accepted good engineering practices, such as:
 - i) the American Society of Mechanical Engineers (ASME);
 - ii) American National Standards Institute (ANSI);
 - iii) Underwriters Laboratories (UL); or
 - iv) The American Society for Testing and Materials (ASTM).

6) The certification document shall contain the signature and stamp of [s]the certifying professional engineer and the serial number of the extraction unit being certified.

7) A cannabis processing facility [~~may~~]shall use food grade [~~glycerin, ethanol, and propylene glycol solvents to create extracts~~]ingredients to create cannabis derivative product.

~~8) A cannabis processing facility shall remove all ethanol from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.~~

~~9)8) A cannabis processing facility may use heat, screens, presses, steam distillation, ice water, and other mechanical methods which do not employ solvents or gases.~~

~~9) A cannabis processing facility shall ensure each solvent, with the exception of CO₂, is extracted in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.~~

10) A cannabis establishment agent using solvents or gases in a closed loop system shall be fully trained ~~in the use of~~[on how to use] the system and have direct access to applicable material safety data sheets.

11) Parts per million for one gram of finished extract cannot exceed residual solvent or gas levels provided in [Utah Admin. Code]Rule R68-29.

R68-28-6. Security Requirements.

1) At a minimum, each cannabis processing facility shall have a security alarm system on [all]each perimeter entry point[s] and perimeter window[s].

2) At a minimum, a licensed cannabis processing facility shall have a complete video surveillance system:

- a) with minimum camera resolution of [640 x 470]1280 x 720 pixels or pixel equivalent for analog[-]; and
- b) that retains footage for at least 45 days.

3) [All]each camera[s] shall be fixed and placement shall allow for the clear and certain identification of any person and activities in controlled areas.

4) Controlled areas included:

- a) [all]any entrances and exits, or ingress and egress vantage points;
- b) [all]any areas where cannabis or cannabis products are stored[-];
- c) [all]any areas where cannabis or cannabis products are extracted[-];
- d) [all]any areas where cannabis or cannabis products are manufactured, packaged, or labeled; and
- e) [all]any areas where cannabis waste is being moved, processed, stored or destroyed.

5) [All]Each camera[s] shall record continuously.

6) For locally stored footage, the surveillance system storage device shall be secured in the facility in a lockbox, cabinet, closet, or secured in another manner to protect from employee tampering or [criminal]-theft.

7) For footage stored on a remote server, access shall be restricted to protect from employee tamperin[g].

8) Any gate or entry point must ~~have lighting~~[be lighted in low light conditions] sufficient to record activity occurring in low light conditions.

9) [All]Each visitors to a cannabis processing facility shall be required to display an[have a properly displayed] identification badge issued by the facility [~~at all times~~]-while on the premises[-of the facility].

10) At all times,[All] visitors shall be escorted by a cannabis processing facility agent[~~at all times while in the facility~~].

11) A cannabis processing facility shall keep and maintain a visitors log showing:

- a) the full name of each visitor entering the facility;
 - ~~b) the badge number issued;~~
 - ~~e) the time of arrival;~~
 - ~~d) the time of departure;~~ and
 - ~~e) the purpose of the visit.~~
- 12) The cannabis processing facility shall keep the visitors log for a minimum of [a]one year.
- 13) The cannabis processing facility shall make the visitor log ~~[shall]~~ available to the department upon request.

R68-28-7. Inventory Control.

- 1) ~~[Every]~~Each batch or lot of cannabis, cannabis ~~[extract]~~derivative product, cannabis product, test sample, or cannabis waste shall have a unique identifier in the inventory control system.
- 2) ~~[Every]~~Each batch or lot of cannabis, cannabis ~~[extract]~~derivative product, cannabis product, sample, or cannabis waste shall be traceable to the lot~~[used as the base material from a cannabis cultivation facility].~~
- 3) Unique identification numbers may not be reused.
- 4) Each batch, ~~[or]~~lot, or sample of cannabis~~[, cannabis extract, cannabis product, test sample, or cannabis waste that has been issued a unique identification number]~~ shall have a physical tag placed on it with the unique identification number that is displayed on a physical tag.
- 5) The tag shall be legible and placed in a position that can be clearly read~~[and shall be kept free from dirt and debris].~~
- 6) The following shall be reconciled in the inventory control system at the close of each business each day:
- a) date and time ~~[cannabis, cannabis extract, or cannabis product is]~~material containing cannabis are being transported to a cannabis production establishment~~[-] or medical cannabis pharmacy[-] or the state central fill medical cannabis pharmacy;~~
 - b) ~~[all]~~each sample[s] used for testing and the test results;
 - c) a complete inventory of ~~[cannabis, cannabis extract cannabis product, trim, or other plant material]~~material containing cannabis;
 - d) cannabis product by unit count;
 - e) weight per unit of product;
 - f) weight and disposal of cannabis waste materials;
 - g) the identity of who disposed of the cannabis waste and the location of the waste receptacles; and
 - h) theft or loss or suspected theft or loss of ~~[cannabis, cannabis extract, or cannabis product]~~material containing cannabis.
- 7) A receiving cannabis processing facility shall document in the inventory ~~[tracking]~~control system any ~~[cannabis, cannabis extract, or cannabis product]~~material containing cannabis received, and any difference between the ~~[quality]~~quantity specified in the transport manifest and the quantity~~[ies]~~ received.
- 8) A cannabis processing facility shall immediately upon receipt of THC extract from a licensed industrial hemp processor enter the following information into the inventory control system:
- a) the amount of THC extract received;
 - b) the name, address, and licensing number of the industrial hemp processor;
 - c) the weight per unit of product received; and
 - d) the assigned unique identification number.

R68-28-8. Cannabis Processing Facility Agents.

- 1) A cannabis processing facility shall apply to the department for a cannabis establishment agent on a form provided by

the department.

- 2) An application is not considered complete until the background check has been completed and the facility has paid the registration fee.
- 3) The cannabis processing facility agent registration card shall contain:
- a) the ~~[agent's]~~full name of the agent;
 - b) the name of the cannabis processing establishment;
 - c) the job title or position of the agent; and
 - d) a photograph of the agent.
- 4) A cannabis processing facility is responsible to ensure that ~~[all]~~each agent[s] has~~[ve]~~ received:
- a) the department approved training as specified in ~~[Utah Code]~~Section 4-41a-301; and
 - b) any task specific training as outlined in the operating plan submitted to the department.
- 5) A cannabis processing facility agent shall have a properly displayed identification badge which has been issued by the department at all times while on the facility premises or while engaged in the transportation of cannabis.
- 6) ~~[All]~~Each cannabis production establishment agent[s] shall have their state issued identification card in their possession to certify the information on their badge is correct.
- 7) ~~[An agent's identification badge shall be returned to the department immediately upon termination of their employment with the cannabis processing facility.]~~Upon termination, the identification badge of an agent shall be immediately returned to the department.

R68-28-9. Minimum Storage and Handling Requirements.

- 1) A cannabis processing facility shall ~~store~~have separate storage for cannabis, cannabis ~~[extract]~~concentrate, or cannabis product[s] in a separate location from~~[that are]~~ outdated, damaged, deteriorated, misbranded, or adulterated product~~[-] or product~~ whose containers or packaging have been opened or breached~~[until the cannabis, cannabis extract, or cannabis products are destroyed].~~
- 2) ~~[All-e]~~Cannabis, cannabis [extract]concentrate, and cannabis product[s] shall be stored at least six inches off the ground.
- 3) Storage areas shall:
- a) be maintained in a clean and orderly condition; and
 - b) be free from infestation by insects, rodents, birds, or vermin.
- 4) A cannabis processing facility shall:~~[store all cannabis, cannabis extract, or cannabis products in process in a manner so as to prevent diversion, theft, or loss.]~~
- a) track and label each cannabis plant product and cannabis concentrate;
 - b) ensure each unfinished product is stored in a secure location; and
 - c) immediately after completion of the process or at the end of the scheduled business day return to a secure location.
- ~~[5] A cannabis processing facility shall make cannabis, cannabis extract, or cannabis product accessible only to the minimum number of specifically authorized employees essential for efficient operation and shall return the cannabis or cannabis extract to its secure location immediately after completion of the process or at the end of the scheduled business day.]~~
- ~~[6]5~~ If a manufacturing process cannot be completed at the end of a working day, the processor shall securely lock the processing area or tanks, vessels, bins, or bulk containers containing cannabis inside an area or room that affords adequate security.

R68-28-10. Product Appearance and Flavor.

1) A cannabis processing facility may not produce a cannabis product that is designed to mimic a candy product.

2) A cannabis processing facility may not produce a product that includes a candy-like flavor or another flavor the facility knows or should know appeals to children.

3) A cannabis processing facility may use only the following artificial flavors:

- a) apple;
- b) banana;
- c) cherry;
- d) grape;
- e) lemon;
- f) mint;
- g) orange;
- h) raspberry;
- i) strawberry;
- j) vanilla; or
- k) watermelon.

4) Cannabis or cannabis product may retain the natural flavor provided the flavor is not candy-like or another flavor the facility knows or should know appeals to children.

5) A cannabis processing facility may not shape a cannabis product in any way to appeal to children.

R68-28-11. ~~Packaging~~ Processing of Cannabis and Cannabis Product.

1) A cannabis processing facility shall process, manufacture, package, and label cannabis and cannabis product in accordance with 21 CFR 111, "Current Good Manufacturing, Packaging, Labeling, or Holding Operation for Dietary Supplements."

2) Cannabis and cannabis product shall be packaged in child-resistant packaging in accordance with 16 CFR 1700.

~~[4]3~~ A cannabis processing facility shall package cannabis or cannabis product[s] in accordance with this rule and Section [Utah Code] 4-41a-602 prior to transportation to a medical cannabis pharmacy ~~[or the state central fill medical cannabis pharmacy].~~

~~[2] Cannabis and cannabis product shall be packaged in child-resistant packaging in accordance with 16 C.F.R. Section 1700.]~~

~~[3]4~~ Any container or packaging containing cannabis or cannabis product shall protect the product from contamination and shall not impart any toxic or deleterious substance to the cannabis or cannabis product.

5) Cannabis cultivation byproduct shall either be:

a) chemically or physically processed to produce a cannabis concentrate for incorporation into cannabis derivative product; or

b) destroyed according to Section 4-41a-405.

6) Cannabis concentrate and product produced by cannabis processing facilities shall be tested pursuant to Rule R68-29.

R68-28-12. Labeling of Cannabis and Cannabis Product.

1) The text used on all labeling shall be printed in at least ~~[40]~~8-point font and may not be in italics.

2) A cannabis processing facility shall label ~~[at]~~ cannabis and cannabis product before ~~[it sells]~~ the sale of the cannabis or cannabis product to a medical cannabis pharmacy ~~[or the state central fill medical cannabis pharmacy].~~

3) The label shall be securely affixed to the package and be in legible English.

4) A label for cannabis flower shall include the following information in the order as listed:

~~a) the name of the cannabis cultivation facility; [followed by the name of cannabis processing facility with the cannabis processing establishment licensing number;]~~

b) the name of the cannabis processing facility;
c) the cannabis processing establishment licensing number;

~~[b]~~d) the lot number;

~~[e]~~c) the date of harvest;

~~[d]~~f) the date of final testing;

~~[e]~~g) the batch number;

~~[f]~~h) the date on which the product was packaged;

~~[g]~~i) the cannabinoid profile, potency levels, and terpenoid profile as determined by the independent testing laboratory,

~~[h]~~j) the expiration date; and

~~[i]~~k) the quantity of cannabis being sold.

5) THC potency levels for cannabis flower shall be listed as total THC [total potential THC and not include any other calculated level of THC].

6) A label for cannabis product[s] shall include the following information ~~[in the order listed]:~~

a) the name of the cannabis processing facility ~~[and licensing number];~~

b) the cannabis processing facility licensing number;

~~[b]~~c) the batch number;

~~[e]~~d) the date of production;

~~[d]~~e) the date of the final testing;

~~[e]~~f) the date on which the product was packaged;

~~[f]~~g) the cannabinoid profile ~~[, potency level, and terpenoid profile as determined by the independent testing laboratory];~~

~~[g]~~h) the expiration date;

~~[h]~~i) the total amount of THC measured in milligrams;

~~[i]~~j) a list of ~~[at]~~each ingredient[s] and ~~[at]~~each major food allergen[s] as identified in 21 U.S.C. 343;

~~[j]~~k) the net weight of the product; and

~~[k]~~l) a disclosure of the type of extraction process used and any solvent, gas, or other chemical used in the extraction process ~~[or any other compound added to the concentrated cannabis].~~

7) ~~[At]~~Each cannabis ~~[or]~~and cannabis product label[s] shall contain the following warning: "WARNING: Cannabis has intoxicating effects and may be addictive. Do not operate a vehicle or machinery under its influence. KEEP OUT OF REACH OF CHILDREN. This product is for medical use only. Use only as directed by a qualified medical provider."

8) A cannabis processing facility may include a ~~[small]~~ logo or brand name on ~~[at the end of]~~ the label, as long as it does not obscure the information required on the label.

9) No other information ~~[,]~~, illustration[s], or depiction shall appear on the label.

R68-28-13. Transportation.

1) A printed transport manifest shall accompany ~~[every]~~each transport of cannabis.

2) The manifest shall contain the following information:

a) the cannabis production establishment address and license number of the departure location;

b) physical address and license number of the receiving location;

c) strain name, quantities by weight, and unique identification numbers of each cannabis material to be transported;

d) date and time of departure;

e) estimated date and time of arrival; and
 f) name and signature of each agent accompanying the cannabis.

3) The transport manifest may not be voided or changed after departing from the original cannabis production establishment.

4) A copy of the transport manifest shall be given to the receiving cannabis production establishment [~~processing establishment, independent laboratory,~~] or medical cannabis pharmacy [~~, or state central fill medical cannabis pharmacy~~].

5) The receiving cannabis processing facility, independent laboratory, or medical cannabis pharmacy [~~, or state central fill medical cannabis pharmacy~~] shall ensure that the cannabis material received is as described in the transport manifest and shall: [~~record the amounts received for each strain into the inventory control system.~~]

a) record the amounts received for each strain into the inventory control system; and

b) document any differences between the quantity specified in the transport manifest and the quantities received in the inventory control system.

[~~6) The receiving cannabis processing facility, independent laboratory, medical cannabis pharmacy, or state central fill medical cannabis pharmacy shall document at time of receipt any differences between the quantity specified in the transport manifest and the quantities received in the inventory control system.~~]

[~~7~~6] During transportation, cannabis shall be:

- a) shielded from the public view;
- b) secured; and
- c) temperature controlled if perishable.

[~~8~~7] A cannabis production facility shall contact the department within 24 hours if a vehicle transporting cannabis is involved in an accident that involves product loss.

[~~9~~8] Only the registered agents of the cannabis processing facility may occupy a transporting vehicle.

R68-28-14. Recall Protocol.

1) The department may initiate a recall of cannabis or cannabis products if [-]:

- a) evidence exists that pesticides not approved by the department are present on or in the cannabis or cannabis product[s];
- b) evidence exists that residual solvents are present on or in cannabis or cannabis product[s];
- c) evidence exists that harmful contaminants are present on or in cannabis or cannabis product[s]; or
- d) the department believes or has reason to believe the cannabis or cannabis product[s] is unfit for human consumption.

2) The recall plan of a [~~A~~] cannabis processing facility [~~'s recall plan~~] shall include, at a minimum:

- a) a designation of at least one member of the staff who serves as the recall coordinator;
- b) procedures for identifying and isolating product to prevent or minimize distribution to patients;
- c) procedures to retrieve and destroy product; and
- d) a communications plan to notify those affected by the recall.

3) The cannabis processing facility must track the total amount of affected cannabis or cannabis product and the amount of affected cannabis or cannabis product returned to the facility as part of the recall.

4) The cannabis processing facility shall coordinate the destruction of the cannabis or cannabis product with the department

and allow the department to oversee the destruction of the affected product.

5) The department [~~shall periodically check on~~] has authority to monitor the progress of the recall until the department declares an end to the recall.

6) A cannabis [~~cultivation~~] production facility shall notify the department before initiating a voluntary recall.

R68-28-15. Cannabis Waste Disposal.

1) Solid and liquid wastes generated during cannabis [~~cultivation~~] processing shall be stored, managed, and disposed of in accordance with applicable state laws and regulations.

2) Wastewater generated during the cannabis production and processing shall be disposed of in compliance with applicable state laws and regulations.

3) Cannabis waste generated from the cannabis plant, trim, and leaves is not considered hazardous waste unless it has been treated or contaminated with a solvent, or pesticide.

4) [~~All e~~] Cannabis waste shall be rendered unusable prior to leaving the cannabis processing facility.

5) Cannabis waste, which is not designated as hazardous, shall be rendered unusable by grinding and incorporating the cannabis waste with other ground materials so the resulting mixture is at least [~~fifty percent~~] 50% non-cannabis waste by volume or other methods approved by the department before implementation.

6) Materials used to grind and incorporate with cannabis fall into two categories:

- a) compostable; or
- b) non-compostable.

7) Compostable waste is cannabis waste to be disposed of as compost or in another organic waste method mixed with:

- a) food waste;
- b) yard waste; or
- c) vegetable-~~[]~~-based grease or oils.

8) Non-compostable waste is cannabis waste to be disposed of in a landfill or another disposal method, such as incineration, mixed with:

- a) paper waste;
- b) cardboard waste;
- c) plastic waste; or
- d) soil.

9) Cannabis waste includes:

- a) cannabis plant waste, including roots, stalks, leaves, and stems;
- b) excess cannabis or cannabis products from any quality assurance testing;
- c) cannabis or cannabis products that fail to meet testing requirements; and
- d) cannabis or cannabis products subject to a recall.

R68-28-16. Change in Operation Plans.

1) A cannabis processing facility shall submit a notice, on a form provided by the department, prior to making any changes to:

- a) ownership or financial backing of the facility;
- b) the facility's name;
- c) a change in location;
- d) any modification, remodeling, expansion, reduction or physical, non-cosmetic alteration of a facility; or
- e) change to the number of production lines.

2) A cannabis processing facility may not implement changes to the initial approved operation plan without department approval.

NOTICES OF PROPOSED RULES

- 3) The department shall respond to the request for changes within 15 business days.
- 4) The department shall approve of requested changes unless approval would lead to a violation of the applicable laws and rules of the state.
- 5) The department shall specify reason for the denial of approval for a change to the operation plan.

R68-28-17. Renewals.

- 1) A cannabis processing facility shall submit a notice of intent to renew and the licensing fee to the department ~~[by December 31st]~~within 30 days of license expiration.
- 2) If the licensing fee and intent to renew are not submitted within 30 days of license expiration.~~[December 31st]~~ the licensee may not continue to operate.
- 3) The department may take into consideration violations issued in determining license renewals.

R68-28-18. Violation Categories.

- 1) Public Safety Violations: \$3,000- \$5,000 per violation. This category is for violations which present a direct threat to public health or safety including~~[-, but not limited to]:~~
 - a) cannabis sold to an unlicensed source;
 - b) cannabis purchased from an unlicensed source;
 - c) refusal to allow inspection;
 - d) failure to comply with testing requirements;
 - e) a test result for high pesticide residue in the cannabis produced or cannabis product;
 - f) a test result for high residual solvents, heavy metal, microbials, molds, or other harmful contaminants;
 - g) failure to maintain required cleanliness and sanitation standards;
 - h) unauthorized personnel on the premises;
 - i) permitting criminal conduct on the premises;
 - j) possessing, manufacturing, or distributing cannabis products ~~[which]that~~ the person knows or should know appeal to children; or
 - k) engaging in or permitting a violation of the ~~[Utah Code]Title 4, Chapter [-]41a, Cannabis Production Establishments,~~ which amounts to a public safety violation as described in this ~~[s]Subsection.~~
- 2) Regulatory Violations: \$1,000-\$5,000 per violation. This category is for violations involving this rule and other applicable state rules including~~[-, but not limited to]:~~
 - a) failure to maintain alarm and security systems;
 - b) failure to keep and maintain records;
 - c) failure to maintain traceability;
 - d) failure to follow transportation requirements;
 - e) failure to follow the waste and disposal requirements;
 - f) engaging in or permitting a violation of ~~[Utah Code]Title 4[-], Chapter 41a, Cannabis Production Establishments~~ or this rule which amounts to a regulatory violation as described in this ~~[s]Subsection;~~ or
 - g) failure to maintain standardized scales.
- 3) Licensing Violations: \$500- \$5,000 per violation. This category is for violations involving licensing requirements including~~[-, but not limited to]:~~
 - a) an unauthorized change to the operating plan;
 - b) failure to notify the department of changes to the operating plan;
 - c) failure to notify the department of changes to financial or voting interests of greater than 2%;

- d) failure to follow the operating plan as approved by the department;
- e) engaging in or permitting a violation of this rule or ~~[Utah Code]Title 4[-], Chapter 41a, Cannabis Production Establishments~~ which amounts to a licensing violation as described in this ~~[s]Subsection;~~ or
- f) failure to respond to violations.
- 4) The department shall calculate penalties based on the level of violation and the adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.
- 5) The department may enhance or reduce the penalty based on the seriousness of the violation.

KEY: ~~[cannabis]~~cannabis processing, cannabis production establishment
Date of Enactment or Last Substantive Amendment: ~~[July 22, 2019]~~2020
Authorizing, and Implemented or Interpreted Law: 4-41a-103(5); 4-41a-404(3); 4-41a-701(3); 4-41a-302(3)(b)(ii); 4-2-103(1)(i); 4-41a-405(2)(b)(iv); 4-41a-801(1)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R68-29	Filing No. 52808

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
Street address:	350 N Redwood Road	
City, state:	Salt Lake City, UT 84115	
Mailing address:	PO Box 146500	
City, state, zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	385-245-5222	ambermbrown@utah.gov
Cody James	801-982-2376	codyjames@utah.gov
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R68-29. Quality Assurance Testing on Cannabis
3. Purpose of the new rule or reason for the change:
The purpose of this amendment is to clarify this rule and definitions, to remove references to cannabinoids, and to

update testing requirements to make it easier for processors to comply.

4. Summary of the new rule or change:

These changes remove references to cannabinoids, which will be addressed in a separate rule. The changes also clarify the definitions of various cannabis products, including plant product, derivative product, cultivation by product, and cannabis concentrate. Finally, the changes update cannabis testing requirements to provide separate requirements based on the type of product being tested.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

These rule changes clarify an existing rule whose costs have already been determined. There are no costs or savings to the state budget associated with these changes.

B) Local governments:

These rule changes clarify an existing rule whose costs have already been determined. There are no costs or savings to local governments associated with these changes.

C) Small businesses ("small business" means a business employing 1-49 persons):

These rule changes clarify an existing rule whose costs have already been determined. There are no costs or savings to small businesses associated with these changes.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

These rule changes clarify an existing rule whose costs have already been determined. There are no costs or savings to non-small businesses associated with these changes.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no cost to persons other than small businesses, non-small businesses, or state and local governments associated with these changes.

F) Compliance costs for affected persons:

The rule changes do not affect compliance costs for affected persons.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0

Fiscal Benefits

State Government	\$0	\$0	\$0
Local Governments	\$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

H) Department head approval of regulatory impact analysis:

Commissioner R. Logan Wilde, Utah Department of Agriculture and Food, has reviewed and approves the regulatory impact analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

It is expected that this rule change will allow cannabis testing laboratories to ensure products are tested for safety and potency in accordance with state law. Providing clear and comprehensive guidelines will help producers get products to market faster. The proposed changes do not add any additional costs to the program and clarify the existing rule.

B) Name and title of department head commenting on the fiscal impacts:

R. Logan Wilde, Commissioner

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Subsection 4-41a-701(3)		
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	07/31/2020
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10. This rule change MAY become effective on:	08/07/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	R. Logan Wilde, Commissioner	Date:	06/03/2020
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R68. Agriculture and Food, Plant Industry.

R68-29. Quality Assurance Testing on Cannabis.

R68-29-1. Authority and Purpose.

1) Pursuant to ~~[s]Subsection[s] 4-41-403(1) and~~ 4-41a-701(3), this rule establishes the standards for cannabis and cannabis product ~~[testing and sets limits for pesticides, residual solvents, heavy metals, and other contaminants.]~~ potency testing and sets limits for water activity, foreign matter, microbial life, pesticides, residual solvents, heavy metals, and mycotoxins.

R68-29-2. Definitions.

1) "Adulterant" means any poisonous or deleterious substance in a quantity that may be injurious to health, including:

- a) pesticides;
- b) heavy metals;
- c) solvents;
- d) microbial life;
- e) toxins; or
- f) foreign matter.

~~[4]2)~~ "Analyte" means a substance or chemical component that is undergoing analysis.

~~[2]3)~~ "Batch" means a quantity of:

a) cannabis ~~[extract]~~ concentrate produced on a particular date and time, following clean up until the next clean up during which the same lots of cannabis are used;

b) cannabis product produced on a particular date and time, following clean up until the next clean up during which cannabis ~~[extract]~~ concentrate is used; or

c) cannabis flower from a single strain and growing cycle packaged on a particular date and time, following clean up until the next clean up during which lots of cannabis are being used.

4) "Cannabinoid" means any:

a) naturally occurring derivative of cannabigerolic acid (CAS 25555-57-1); or

b) any chemical compound that is both structurally and chemically similar to a derivative of cannabigerolic acid.

~~[3) "Cannabinoid product" means a chemical compound extracted from a hemp product that:~~

~~a) is processed into a medical dosage form; and~~

~~b) contains less than 0.3% tetrahydrocannabinol by dry weight.]~~

~~[4]5)~~ "Cannabis" means any part of the marijuana plant.

6) "Cannabis concentrate" means the product of any chemical or physical process applied to cannabis biomass that concentrates or isolates the cannabinoids contained in the biomass.

~~[5]7)~~ "Cannabis cultivation facility" means a person that:

a) possesses cannabis;

b) grows or intends to grow cannabis; and

c) sells or intends to sell cannabis to a cannabis cultivation facility or a cannabis processing facility.

8) "Cannabis cultivation byproduct" means any portion of a cannabis plant that is not intended to be sold as a cannabis plant product.

9) "Cannabis derivative product" means a cannabis product made using cannabis concentrate.

10) "Cannabis plant product" means any portion of a cannabis plant intended to be sold by a medical cannabis pharmacy in a form that is recognizable as a portion of a cannabis plant.

~~[6]11)~~ "Cannabis processing facility" means a person that:

a) acquires or intends to acquire cannabis from a cannabis production establishment ~~[or a holder of an industrial hemp processor license under title 4 chapter 41, Hemp and Cannabidiol Act];~~

b) possesses cannabis with the intent to manufacture a cannabis product;

c) manufactures or intends to manufacture a cannabis product from unprocessed cannabis or cannabis ~~[extract]~~ concentrate; and

d) sells or intends to sell a cannabis product to a medical cannabis pharmacy ~~[or the state central fill medical cannabis pharmacy].~~

~~[7]12)~~ "Cannabis product" means a product that:

a) is intended for human use; and

b) contains cannabis or delta 9-tetrahydrocannabinol.

13) "CBD" means cannabidiol (CAS 13956-29-1).

14) "CBDA" means cannabidiolic acid, (CAS 1244-58-2).

15) "Certificate of analysis" (COA) means a document produced by a testing laboratory listing the quantities of the various analytes for that testing was performed.

~~[8]16)~~ "Department" means the Utah Department of Agriculture and Food.

17) "Final product" means a reasonably homogenous cannabis product in its final packaged form created using the same standard operating procedures and the same formulation.

18) "Foreign matter" means:

_____ a) any matter that is present in a cannabis lot that is not a part of the cannabis plant; or

_____ b) any matter that is present in a cannabis or cannabinoid product that is not listed as an ingredient.

_____ 19) "Industrial hemp" means a cannabis plant that contains less than 0.3% total THC by dry weight.

_____ 20) "Industrial hemp waste" means:

_____ a) a cannabinoid extract derived from industrial hemp with greater than 0.3% THC by mass; or

_____ b) industrial hemp biomass with a THC concentration of less than 0.3% by dry weight.

[9]21) "Lot" means the quantity of:

_____ a) flower from a single strain of cannabis and growing cycle produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or

_____ b) trim, leaves, or other plant matter from cannabis [plants] produced on a particular date and time, following clean up until the next clean up.

[40]22) "Pest" means:

_____ a) any insect, rodent, nematode, fungus, weed; or

_____ b) any other form of terrestrial or aquatic plant or animal life, virus, bacteria, or other microorganisms that are injurious to health or to the environment or that the department declares to be a pest.

[44]23) "Pesticide" means any:

_____ a) substance or mixture of substances, including a living organism, that is intended to prevent, destroy, control, repel, attract, or mitigate any insect, rodent, nematode, snail, slug, fungus, weed, or other forms of plant or animal life that are normally considered to be a pest or that the commissioner declares to be a pest;

_____ b) any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and

_____ c) any spray adjuvant, such as a wetting agent, spreading agent, deposit builder, adhesive, or emulsifying agent with deflocculating properties of its own used with a pesticide to aid in the [pesticide's] application or effect of a pesticide.

_____ 24) "Sampling technician" means a person tasked with collecting a representative sample of a cannabis plant product, cannabis concentrate, or cannabis product from a cannabis production establishment who is:

_____ a) an employee of the department;

_____ b) an employee of an independent cannabis laboratory that is licensed by the department to perform sampling; or

_____ c) a person authorized by the department to perform sampling.

_____ 25) "Standard operating procedure" (SOP) means a document providing detailed instruction for the performance of a task.

_____ 26) "THC" means delta-9-tetrahydrocannabinoid (CAS 1972-08-3).

_____ 27) "THCA" means delta-9-tetrahydrocannabinolic acid (CAS 23978-85-0).

_____ 28) "Total CBD" means the sum of the determined amounts of CBD and CBDA.

_____ 29) "Total THC" means the sum of the determined amounts of delta-9-THC and delta-9-THCA, according to the formula: Total THC = delta-9-THC + (delta-9-THCA x 0.877).

_____ 30) "Unit" means each individual portion of an individually packaged product.

_____ 31) "Water activity" is a dimensionless measure of the water present in a substance that is available to microorganisms; calculated as the partial vapor pressure of water in the substance divided by the standard state partial vapor pressure of pure water at the same temperature.

R68-29-3. Required Cannabis and Cannabis Product Tests.

_____ 1) Prior to the transfer of cannabis biomass from a cannabis cultivation facility to a cannabis processing facility, the cultivation facility must make a declaration to the department that the biomass to be transferred is either a cannabis plant product or a cannabis cultivation byproduct.

_____ 2) A cannabis cultivation facility may not transfer a cannabis plant product to a cannabis processing facility unless an independent cannabis testing laboratory has tested a representative sample of the cannabis to determine:

_____ a) the water activity of the sample;

_____ b) the amount of total delta9-THC and total CBD present in the sample; and

_____ c) the presence of adulterants in the sample, as specified in table 1.

_____ 3) Cannabis cultivation byproduct shall either be:

_____ a) chemically or physically processed to produce a cannabis concentrate for incorporation into cannabis derivative product; or

_____ b) destroyed pursuant to Section 4-41a-405.

_____ 4) Prior to its incorporation into a cannabis derivative product, cannabis concentrate shall be tested by an independent cannabis testing laboratory to determine:

_____ a) the amount of total THC and total CBD present in the sample; and

_____ b) the presence of adulterants in the sample, as specified in table 1.

_____ 5) Prior to the transfer of a cannabis product to a medical cannabis pharmacy a representative sample of the product shall be tested by an independent cannabis testing laboratory to determine:

_____ a) the water activity of the sample, as determined applicable by the department;

_____ b) the quantity of any cannabinoid or terpene to be listed on the product label; and

_____ c) the presence of adulterants in the sample, as specified in table 1.

_____ 6) Testing results for cannabis plant product and cannabis concentrate may be applied to cannabis product derived therefrom, provided that the processing steps used to produce the product are unlikely to change the results of the test, as determined by the department.

_____ 7) Mycotoxin testing of a cannabis plant product, cannabis concentrate, or cannabis product may be required if the department has reason to believe that mycotoxins may be present.

[_____ 1) Prior to the transfer of cannabis, a cannabis cultivation facility shall have an independent cannabis laboratory test a representative sample of a cannabis lot for microbiological contaminants, heavy metals, and pesticide residue.

_____ 2) Prior to offering cannabis or a cannabis product for sale, a cannabis processing facility shall have an independent cannabis laboratory test a representative sample of a batch or lot for microbiological contaminants, heavy metals, pesticide, and residual solvent.

_____ 3) A cannabinoid product shall be tested by an independent testing laboratory for microbiological contaminants, heavy metals, pesticides, and residual solvents prior to the products being registered with the department in accordance with Utah Code 4-41-402

_____ 4) The department may require an independent laboratory to test for toxins.

_____ 5) If the sample of cannabis does not pass the toxin, heavy metal, pesticide, or solvent test based on the standards set forth in

NOTICES OF PROPOSED RULES

~~this rule, the cannabis cultivation facility or shall dispose of the entire batch or lot from which the sample was taken.~~

~~6) If the sample of cannabis does not pass the microbiological test based on the standards set forth in this rule, the cannabis may be used to make a carbon dioxide (CO2) or solvent-based extract.~~

~~7) If the sample of a cannabis product does not pass the microbiological, toxin, heavy metal, pesticide, or residual solvent test based on the standards set forth in this rule, the cannabis processing facility shall dispose of the entire batch or lot from which the sample was taken.]~~

8) A cannabis plant product, cannabis concentrate, or cannabis product that fails any of the required adulterant testing standards may be remediated by a cannabis cultivation facility or cannabis processing facility after submitting and gaining approval for a remediation plan from the department.

9) A remediation plan shall be submitted to the department within 15 days of the receipt of a failed testing result.

10) A remediation plan shall be carried out and the cannabis plant product or cannabis concentrate shall be prepared for resampling within 60 days of department approval of the remediation plan.

11) Resampling or retesting of a cannabis lot or batch that fails any of the required testing standards is not allowed until the lot or batch has been remediated.

12) A cannabis lot or cannabis product batch that is not or cannot be remediated in the specified time period shall be destroyed pursuant to Section 4-41a-405.

13) In the event that tests results cannot be retained in the Inventory Control System, the laboratory shall:

- a) keep a record of all test results;
- b) issue a certificate of analysis for all required tests; and
- c) retain a copy of the certificate of analysis on the laboratory premises.

14) Industrial hemp waste purchased by a cannabis cultivation facility in the form of a plant product or a concentrate must meet department cannabis testing standards as determined by an independent cannabis testing laboratory prior to its transfer to a cannabis cultivation facility.

15) Industrial hemp waste that is transferred to a cannabis cultivation facility shall be considered to be cannabis for all testing and regulatory purposes of the department.

TABLE 1
Required Tests by Sample Type

Test	Cannabis Plant Product	Cannabis Concentrate	Cannabis Product
Moisture Content	Required	X	X
Water Activity	Required	X	X
Foreign Matter	Required	Required	Required
Potency	Required	Required	Required
Microbial	Required	Required	Required
Pesticides	Required	Required	Required
Residual Solvents	X	Required	Required
Heavy Metals	Required	Required	Required
Mycotoxins	X	Required	X

R68-29-4. Sampling Cannabis and Cannabis Products.

1) The entity that requests testing of a cannabis plant product lot or cannabis concentrate batch, or cannabis product batch shall make the entirety of the lot or batch available to the sampling technician.

2) The lot or batch being sampled shall be contained in a single location and physically separated from other lots or batches.

3) The sample shall be collected by a sampling technician who is unaffiliated with the entity that requested testing of the cannabis lot or cannabis product batch unless an exception is granted by the department.

4) The owner of the cannabis lot or cannabis product batch and any of their employees shall not assist in the selection of the sample.

5) The sampling technician shall collect the representative sample in a manner set forth in a SOP, that is ISO 17025 compliant, maintained by the laboratory that will perform the testing.

6) When collecting the representative sample, the sampling technician shall:

- a) use sterile gloves, instruments, and a glass or plastic container to collect the sample;
- b) place tamper proof tape on the container; and
- c) appropriately label the sample pursuant to Section R68-30-6.

7) For cannabis plant product lots the minimum representative sample shall be taken according to the following schedule:

- a) 10 subunits with an average weight of one gram each for lots weighing 10 pounds or less;
- b) 16 subunits with an average weight of one gram each for lots weighing 10.01-20 pounds;
- c) 22 subunits with an average weight of one gram each for lots weighing 20.01-30 pounds;
- d) 28 subunits with an average weight of one gram each for lots weighing 30.01-40 pounds;
- e) 32 subunits with an average weight of one gram each for lots weighing 40.01-50 pounds.

8) For cannabis concentrate the minimum representative sample shall be taken according to the following schedule:

- a) 10 mL for batches of one liter or less; or
- b) 20 mL for batches of four liters of less.

9) For cannabis products in their final product form the following minimum number of sample units must be taken, the combined total weight of which must be at least 10 grams, not including packaging materials:

- a) four units for a sample product batch with 5-500 products;
- b) six units for a sample product batch with 501-1000 products;
- c) eight units for a sample product batch with 1,001-5,000 products; and
- d) ten units for a sample product batch with 5,001-10,000 products.

10) Additional material may be included in the representative sample if the material is necessary to perform the required testing.

R68-29-5. Moisture Content Testing and Water Activity Standards.

1) The moisture content of a sample and related lot of cannabis shall be reported on the COA as a mass over mass percentage.

2) A sample and related lot of cannabis fail quality assurance testing if the water activity of the representative sample is found to be greater than 0.65.

3) A sample and related cannabis or cannabinoid product batch intended for human consumption fail quality assurance testing if the water activity of the representative sample is greater than 0.65, unless water is a component of the product formulation and is listed as an ingredient.

R68-29-6. Foreign Matter Standards.

1) A sample and related lot or batch of cannabis, cannabis product, or cannabinoid product fail quality assurance testing if:

- a) the sample contains foreign matter visible to the unaided human eye;
- b) the sample is found to contain microscopic foreign matter estimated to comprise greater than 3% of the mass of the representative sample as determined by the testing laboratory; or
- c) foreign matter is found that is suspected to have been intentionally added to the sample to increase its visual appeal or market value.

R68-29-7. Potency Testing.

1) A lot or batch of cannabis plant product, cannabis concentrate, or cannabis product shall have their potency determined and listed on a COA as total delta-9-THC and total CBD.

R68-29-[4]8. [Microbiological]Microbial Standards.

1) A sample and related lot or batch of [~~cannabis, cannabis product, or cannabinoid product~~]cannabis plant product, cannabis concentrate, or cannabis product fail quality assurance testing for microbiological contaminants if the results exceed the limits as set forth in [Section 1111 of the United States Pharmacopeia.

2) The Department adopts by reference Section 1111 of the United States Pharmacopeia (May 1,2012).]Table 2.

TABLE 2
Microbial Analytes and Action Levels

Material	Microbial Limit Requirement (cfu)	
Flower	Total Aerobic Microbial Count ≤100,000	
	Absence of E. Coli and Salmonella spp.	
	Absence of Aspergillus	
Concentrated oil	Total Aerobic Microbial Count ≤10,000	
	Wax	Total Combined Yeast and Mold Count ≤1,000
		Resin
Tablet	Absence of Pseudomonas	
	Absence of Staph	
	Capsule	Total Aerobic Microbial Count ≤10,000
Total Combined Yeast and Mold Count ≤1,000		
Liquid Suspension		Absence of E. Coli and Salmonella spp.
Gelatinous cube	Absence of Staph	
Transdermal	Total Aerobic Microbial Count ≤100	
	Total Yeast and Mold ≤10	
	Absence of Pseudomonas	
	Absence of Staph	

R68-29-[5]9. Pesticide Standards[Standards for Pesticides].

1) Only pesticides allowed by the department may be used in the [~~production of cannabis, cannabis products, or cannabinoid products~~]cultivation of cannabis.

2) If an independent cannabis laboratory identifies a pesticide that is not allowed under Subsection R68-29-5(1) and is above the action levels provided in Subsection R68-29-5(3) that lot or batch from which the sample was taken has failed quality assurance testing.

3) A sample and related lot or batch of cannabis, [~~or~~]cannabis product, or cannabinoid product fail quality assurance testing for pesticides if the results exceed the limits as set forth [~~on the table below~~]in Table 3.

TABLE[~~ab+e~~] [4]3
Pesticide Analytes and Action Levels

Analyte	Chemical Abstract Service (CAS) Registry number	Action Level ppm
Abaemectin	71751-41-2	0.5
Acephate	30560-19-1	0.4
Acequinocyl	57960-19-7	2

Acetamiprid	135410-20-7	0.2
Aldicarb	116-06-3	0.4
Azoxystrobin	131860-33-8	0.2
Bifenazate	149877-41-8	0.2
Bifenthrin	82657-04-3	0.2
Boscalid	188425-85-6	0.4
Carbaryl	63-25-2	0.2
Carbofuran	1563-66-2	0.2
Chlorantraniliprole	500008-45-7	0.2
Chlorfenapyr	122453-73-0	1
Chlorpyrifos	2921-88-2	0.2
Clofentezine	74115-24-5	0.2
Cyfluthrin	68359-37-5	1
Cypermethrin	52315-07-8	1
Daminozide	1596-84-5	1
DDVP (Dichlorvos)	62-73-7	0.1
Diazinon	333-41-5	0.2
Dimethoate	60-51-5	0.2
Ethoprophos	13194-48-4	0.2
Etofenprox	80844-07-1	0.4
Etoxazole	153233-91-1	0.2
Fenoxycarb	72490-01-8	0.2
Fenpyroximate	134098-61-6	0.4
Fipronil	120068-37-3	0.4
Flonicamid	158062-67-0	1
Fludioxonil	131341-86-1	0.4
[H]hexythiazol[n]	78587-05-0	1
[z]imazalil	35554-44-0	0.2
Imidacloprid	138261-41-3	0.4
Kresoxim-methyl	143390-89-0	0.4
Malathion	143390-89-0	0.2
Metalaxyl	57837-19-1	0.2
Methiocarb	2032-65-7	0.2
Methomyl	16752-77-5	0.4
Methyl parathion	298-00-0	0.2
MGK-264	113-48-4	0.2
Myclobutanil	88671-89-0	0.2
Naled	300-76-5	0.5
Oxamyl	23135-22-0	1
Paclobotrazol	76738-62-0	0.4
Permethrins	52645-53-1	0.2
Phosmet	732-11-6	0.2
Piperonyl butoxide	51-03-6	2
Prallethrin	23031-36-9	0.2
Propiconazole	60207-90-1	0.4
Propoxur	114-26-1	0.2
Pyrethrins	8003-34-7	1
Pyridaben	96489-71-3	0.2
Spinosad	168316-95-8	0.2
Spiromesifen	283594-90-1	0.2
Spirotetramat	203313-25-1	0.2
Spiroxamine	118134-30-8	0.4
Tebuconazole	80443-41-0	0.4
Thiacloprid	111988-49-9	0.2
Thiamethoxam	153719-23-4	0.2
Trifloxystrobin	141517-21-7	0.2

4) Permethrins should be measured as cumulative residue of cis- and trans-permethrin isomers (CAS numbers 54774-45-7 and 51877-74-8).

5) Pyrethrins should be measured as the cumulative residues of pyrethrin 1 (CAS 121-21-1), cinerin 1 (CAS 25402-06-6), and jasmolin 1 (CAS 4466-14-2).

6) Abaemectin is a composite of the amounts of avermectin B1a and avermectin B1b.

R68-29-[6]10. [Solvents]Residual Solvent Standards.

1) A sample and related lot or batch of [~~cannabis, cannabis product, or cannabinoid product~~]cannabis plant product, cannabis concentrate, or cannabis product fails quality assurance testing for residual solvents if the results exceed the limits provided in [~~the table below~~]Table 4 unless the solvent is:

- a) a component of the product formulation;

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b) listed as an ingredient; and
c) generally considered to be safe for the intended form of use.

TABLE [ab]e [2]4
 List of Solvents and Action Levels

Solvent	Chemical Abstract Service (CAS) Registry number	Action Level Φ [g/g] ppm
1,2 Dimethoxyethane	110-71-4	100
1,4 Dioxane	123-9	380
1-Butanol	71-36-3	5000
1-Pentanol	71-41-0	5000
1-Propanol	71-23-8	5000
2-Butanol	78-92-2	5000
2-Butanol 2-Butanone	78-93-3	5000
2-Ethoxyethanol	110-80-5	160
2-methylbutane	78-78-4	5000
2-Propanol (IPA)	67-63-0	5000
Acetone	67-64-1	5000
Acetonitrile	75-05-8	410
Benzene	71-43-2	2
Butane	106-97-8	5000
Cumene	98-82-8	70
Cyclohexane	110-82-7	3880
Dichloromethane	75-09-2	600
2,2-dimethylbutane	75-83-2	290
2,3-dimethylbutane	79-29-8	290
1,2-dimethylbenzene	95-47-6	See Xylenes
1,3-dimethylbenzene	108-38-3	See Xylenes
1,4-dimethylbenzene	106-42-3	See Xylenes
Dimethyl sulfoxide	67-68-5	5000
Ethanol	64-17-5	5000
Ethyl acetate	141-78-6	5000
Ethylbenzene	100-41-4	See Xylenes
Ethyl ether	60-29-7	5000
Ethylene glycol	107-21-1	620
Ethylene Oxide	75-21-8	50
Heptane	142-82-5	5000
n-Hexane	110-54-3	290
Isopropyl acetate	108-21-4	5000
Methanol	67-56-1	3000
Methylpropane	75-28-5	5000
2-Methylpentane	107-83-5	290
3-Methylpentane	96-14-0	290
N,N-dimethylacetamide	127-19-5	1090
N,N-dimethylformamide	68-12-2	880
Pentane	109-66-0	5000
Propane	74-98-6	5000
Pyridine	110-86-1	100
Sulfolane	126-33-0	160
Tetrahydrofuran	109-99-9	720
Toluene	108-88-3	890
Xylenes	1330-20-7	2170

- 2) Xylenes is a combination of the following:
 a) 1,2-dimethylbenzene;
 b) 1,3-dimethylbenzene;
 c) 1,4-dimethylbenzene; and
 d) ethyl benzene.

R68-29-[7]11. Heavy [Metals]Metal Standards.

A sample and related lot or batch of [~~cannabis, cannabis product, or cannabinoid product~~]cannabis plant product, cannabis concentrate, or cannabis product fail quality assurance testing for heavy metals if the results exceed the limits provided in [the table below]Table 5.

TABLE [ab]e [3]5
 Heavy Metals

Metals	Natural Health Products Acceptable limits in parts per million
Arsenic	<2
Cadmium	<0.82
Lead	<1.2
Mercury	<0.4

R68-29[-][8]12. Mycotoxin Standards.

A sample and related lot or batch of [~~cannabis or cannabis product~~]cannabis plant product, cannabis concentrate, or cannabis product fail quality assurance testing for mycotoxin if the results exceed the limits provided in [the table below]Table 6.

TABLE [ab]e [4]6
 Mycotoxin

Test	Specification
The total of Aflatoxin B1, Aflatoxin B2, Aflatoxin G1, and Aflatoxin G2	<20 [46]g/kg of substance
Ochratoxin A.	<20 [46]g/kg of substance

KEY: cannabis testing, quality assurance, cannabis laboratory
Date of Enactment or Last Substantive Amendment: [August 29, 2019]2020
Authorizing, and Implemented or Interpreted Law: 4-41a-701(3); 4-41-403(1)

NOTICE OF PROPOSED RULE			
TYPE OF RULE: Amendment			
Utah Admin. Code Ref (R no.):	R152-32a	Filing No. 52858	

Agency Information

1. Department:	Commerce
Agency:	Consumer Protection
Building:	Heber Wells
Street address:	160 E 300 S
City, state:	Salt Lake City, UT
Mailing address:	PO Box 146704
City, state, zip:	Salt Lake City, UT 84114-6704
Contact person(s):	
Name:	Phone: Email:
Daniel Larsen	801-530-6145 dblarsen@utah.gov
Please address questions regarding information on this notice to the agency.	

General Information

2. Rule or section catchline:
R152-32a. Pawnshop and Secondhand Merchandise Transaction Information Act Rule

3. Purpose of the new rule or reason for the change:
 The amendment to this rule is being enacted to enable a pawn or secondhand business to act in accordance with Subsection 13-32a-104(7)(b)(ii)(A) by electronically extracting an identifying mark from the wireless communication device. This amendment also removes references to dates that have passed and makes nonsubstantive changes to conform to the Rulewriting Manual.

4. Summary of the new rule or change:
 This amendment allows a pawn or secondhand business to act in accordance with Subsection 13-32a-104(7)(b)(ii)(A) by electronically extracting an identifying mark from a wireless communication device in lieu of photographing the identifying mark. Some pawn and secondhand businesses utilize automated kiosks to complete transactions with consumers, and current technology does not allow the kiosk to photograph each identifying mark on a wireless communication device. To properly document the identifying mark, the kiosks connect to the wireless communication device and electronically extract the identifying marks. This electronic extraction accurately and reliably documents the identifying mark on the transaction ticket and provides the same information to the central database that a photograph would provide. This amendment allows flexibility to pawn and secondhand businesses and allows them to continue kiosk-based operations with respect to wireless communication devices, while continuing to provide necessary information to law enforcement and the Division of Consumer Protection (Division).

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:
 This rule is not expected to have any fiscal impact on state government revenues or expenditures because it does not impose any new requirements the state must follow, nor does it otherwise constrain the state.

B) Local governments:
 This rule is not expected to have any fiscal impact on local governments' revenues or expenditures because it does not create any new requirements local governments must follow, nor does it otherwise constrain local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):
 This rule is not expected to have any fiscal impact on small businesses. The Division is unaware of any pawn or secondhand businesses that are small businesses and operate exclusively using automated kiosks to perform transactions involving wireless communication devices. This rule may allow a small business to realize inestimable fiscal benefits if it chooses to operate an automated kiosk

in the fashion contemplated by this rule, but any benefit would be speculative.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

This rule is expected to provide fiscal benefit to at least one non-small business. The non-small business is a secondhand business that transacts exclusively using automated kiosks. This rule allows the business to continue operating in accordance with Subsection 13-32a-104(7)(b)(ii)(A). Without this rule, a pawn or secondhand business that transacts exclusively using automated kiosks would be unable to operate in the state without having to perform additional business operations, at a cost of approximately \$400,000 per year for the next three years.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an *agency*):

This rule is may indirectly benefit consumers by allowing them to sell a wireless communication device to a pawn or secondhand business at an automated kiosk. Although consumers could sell a wireless communication device to a pawn or secondhand business that does not operate an automated kiosk, additional choice and competition in the market for used wireless communication devices likely provides a fiscal benefit to consumers. Members of the pawn and secondhand business industry estimate the value of unwanted wireless communication devices in Utah to be \$12,000,000, but it is unclear how many of those devices would be traded to pawn or secondhand businesses impacted by this rule. This rule's ultimate fiscal benefit to consumers is inestimable.

F) Compliance costs for affected persons:

This rule does not impose compliance costs upon affected persons beyond what is already required by Subsection 13-32a-104(7)(b)(ii)(A), and instead provides an alternative method by which a pawn or secondhand business can achieve compliance.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

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Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$400,000	\$400,000	\$400,000
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$400,000	\$400,000	\$400,000
Net Fiscal Benefits	\$400,000	\$400,000	\$400,000
H) Department head approval of regulatory impact analysis:			
The Executive Director of the Department of Commerce, Chris Parker, has reviewed and approved this fiscal analysis.			
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:			
<p>This rule is not expected to have any fiscal impact on small businesses. The Division is unaware of any pawn or secondhand businesses that are small businesses and operate exclusively using automated kiosks to perform transactions involving wireless communication devices. This rule may indirectly benefit consumers by allowing them to sell a wireless communication device to a pawn or secondhand business at an automated kiosk. No other impact to the state is expected beyond a minimal cost to the Division to disseminate this rule once the proposed amendments are made effective. Accordingly, no fiscal impact is expected for small businesses over and above any fiscal impact described in the fiscal note for the legislation as these costs are either inestimable or there is no fiscal impact.</p> <p>This rule is expected to provide fiscal benefit to at least one non-small secondhand business that transacts exclusively using automated kiosks and allows any business to continue operating in accordance with Subsection 13-32a-104(7)(b)(ii)(A). Without this rule, pawn brokers or secondhand businesses that transact exclusively using automated kiosks would be unable to operate in the state without having to incur a cost. No other fiscal impact is expected for the same reasons as described above for small business as to the costs being inestimable or there is no fiscal impact.</p>			

B) Name and title of department head commenting on the fiscal impacts:
Chris Parker, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):		
Subsection 13-2-5(1)	Subsection 13-32a-104(7)(b)(ii)(A)	Subsections 13-32a-106(1)(a) and (b)

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	07/31/2020
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10. This rule change MAY become effective on:	08/07/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Daniel O'Bannon, Director	Date:	06/15/2020
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R152. Commerce, Consumer Protection.

R152-32a. Pawnshop and Secondhand Merchandise Transaction Information Act Rule.

R152-32a-1. Purpose.

(1) The purpose of this rule is to specify the information capable of being transmitted electronically to the central database, and to aid the division's administration and enforcement of Title 13, Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act.

R152-32a-2. Authority.

(1) This rule is enacted ~~[pursuant to]~~ in accordance with Subsections 13-2-5(1) and 13-32a-106(1)(b).

R152-32a-3. Definitions—~~Reserved~~.

~~Reserved.~~

(1) "Electronically extract" means to obtain an identifying mark described by Subsection 13-32a-104(1)(h) using an electronic system that:

- (a) does not alter the identifying mark;
 - (b) does not allow the identifying mark to be altered by a person after it is obtained by the electronic system; and
 - (c) accurately documents the identifying mark on the ticket.
- (2) "Wireless communication device" means:
- (a) a cellular telephone; or
 - (b) a portable electronic device designed to receive and transmit a text message, email, video, or voice communication.

R152-32a-4. Information Capable of Being Transmitted Electronically ~~Pursuant to~~ in Accordance with Subsection 13-32a-106(1)(a).

(1) The following information is capable of being transmitted electronically to the central database:

- (a) all information described by:
 - (i) Subsections 13-32a-104(1)(a) through 13-32a-104(1)(c);
 - (ii) Subsections 13-32a-104(1)(e)(i) and (ii);
 - (iii) Subsection 13-32a-104(1)(f);
 - (iv) Subsections 13-32a-104(1)(h)(i) through 13-32a-104(1)(h)(vii);
 - (v) Subsections 13-32a-104.5(2)(a) through 13-32a-104.5(2)(c)(ii);
 - (vi) Subsection 13-32a-104.5(2)(d);
 - (vii) Subsections 13-32a-104.5(2)(f)(i) through 13-32a-104.5(2)(f)(vi);
 - (viii) Subsections 13-32a-104.5(3)(a) through 13-32a-104.5(3)(b)(vi);
 - (ix) Subsection 13-32a-104.5(4)(a);
 - (x) Subsections 13-32a-104.5(4)(d) through 13-32a-104.5(4)(f); and
 - (xi) Subsections 13-32a-104.5(4)(h) and (i).

~~(2) On and after January 1, 2020, the following information is capable of being transmitted electronically to the central database:~~

- ~~(a) an individual's electronic legible fingerprint, as required by in accordance with Subsections 13-32a-104(1)(e)(iv), 13-32a-104(6)(a)(i), 13-32a-104.5(2)(c)(iv), and 13-32a-104.5(6)(a)(i); and~~
- ~~(b) any color digital photograph required by Subsection 13-32a-104(7).~~

R152-32a-5. Electronic Extraction of an Identifying Mark from a Wireless Communication Device.

(1) A pawn or secondhand business is deemed to have obtained a color digital photograph of an identifying mark in accordance with Subsection 13-32a-104(7)(b)(ii)(A) if the pawn or secondhand business electronically extracts the identifying mark from a wireless communication device.

(2) Nothing in this rule relieves a pawn or secondhand business from obtaining a color digital photograph of any identifying mark that is not electronically extracted from a wireless communication device.

KEY: pawnshops, secondhand merchandise dealers, consumer protection, central database

Date of Enactment or Last Substantive Amendment: ~~January 1, 2020~~

Authorizing, and Implemented or Interpreted Law: 13-2-5(1); 13-32a-104(7)(b)(ii)(A); 13-32a-106(1)(a) and (b)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R156-73-501	Filing No. 52821

Agency Information

1. Department:	Commerce	
Agency:	Occupational and Professional Licensing	
Building:	Heber M. Wells Building	
Street address:	160 E 300 S	
City, state:	Salt Lake City UT 84111-2316	
Mailing address:	PO Box 146741	
City, state, zip:	Salt Lake City UT 84114-6741	
Contact person(s):		
Name:	Phone:	Email:
Allyson Pettley	801-530-6179	apettley@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R156-73-501. Unprofessional Conduct
3. Purpose of the new rule or reason for the change:
The Division of Occupational and Professional Licensing (Division) in collaboration with the Chiropractic Physician Licensing Board recommends these proposed amendments to define certain actions as unprofessional conduct.
4. Summary of the new rule or change:
In Subsection R156-73-501(2), makes a minor wording change to delete the term "which". In Subsection R156-73-501(7), clarifies that licensed chiropractors are to keep the Division informed of a current mailing address, current email address, and a current telephone number. In Subsection R156-73-501(15), the proposed rule amendment will establish unprofessional conduct for soliciting, receiving, or paying compensation to another party for sending or referring a patient in excess of \$50 per patient. In Subsection R156-73-501(16), the proposed rule amendment will establish unprofessional conduct for soliciting, receiving, or paying compensation to another party for commission, rebates, kickbacks, or bribes. Also, other minor wording or punctuation changes have also been made.

Fiscal Information

5. Aggregate anticipated cost or savings to:

<p>A) State budget:</p> <p>The Division estimates that the proposed amendments may result in on additional investigation of violations or complaints annually at a cost of \$300. The amendments are not expected to impact any existing state practices or procedures, and as described below in the analysis for small business and non-small business, the Division does not expect any state agencies that may be acting as employers of licensees to experience any measurable fiscal impacts. No other impact to the state is expected beyond a minimal cost to the Division of approximately \$75 to disseminate this rule once the proposed amendments are made effective.</p>
<p>B) Local governments:</p> <p>The Division estimates that the proposed amendments will have no measurable impact on local governments. None of these amendments are expected to impact local governments' practices or procedures. Additionally, as described below in the analysis for small businesses and non-small businesses, the Division does not expect any local governments that may be acting as employers or licensees to experience any measurable fiscal impacts.</p>
<p>C) Small businesses ("small business" means a business employing 1-49 persons):</p> <p>The proposed amendments will regulate chiropractic physicians practicing in Utah, which may indirectly affect the estimated 470 small businesses in Utah owned by individuals in the chiropractic profession (North American Industry Classification System (NAICS) 621310). However, the amendments are not expected to result in any measurable fiscal impact to small businesses. The amendments will only affect licensees who violate this rule and as described below for other persons, for the typical licensee the amendments will have no fiscal impact. Accordingly, any impact from non-compliance will never be uniformly felt across the industry, and most small businesses will never be impacted. Although a small business owned by a licensee who is sanctioned may face indirect financial costs, it is impossible to estimate what those costs might be because any such violations are unforeseeable, and because any indirect costs that a small business may potentially experience will vary widely depending on the unique characteristics of the entity and the individual characteristics and actions of each licensee. This relevant data is unavailable and the cost of acquiring any such data is prohibitively expensive.</p>
<p>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</p> <p>These proposed rule changes will not impact non-small business because there are no non-small businesses in Utah in this industry.</p>

<p>E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):</p> <p>There are approximately 1,021 licensed chiropractic physicians who may be affected by these proposed amendments. No measurable fiscal impact to these persons is expected. The goal of this rule is to provide a deterrent, such that there is a \$0 net impact on all parties involved and minimal occasions for noncompliance. Therefore, for the typical licensee the amendments are expected to have no direct or indirect fiscal impact. Further, although a licensee who is found to have violated this rule may experience a fiscal impact, it is impossible to estimate what those costs might be with any accuracy at present, both because they would apply only in cases of unforeseeable violations, and because any potential costs would depend on the unique characteristics and actions of each individual licensee. This relevant data is unavailable and the cost of acquiring any such data is prohibitively expensive.</p>																																												
<p>F) Compliance costs for affected persons:</p> <p>As described above for other persons, the Division does not anticipate any compliance costs for any affected persons from these proposed amendments.</p>																																												
<p>G) Regulatory Impact Summary Table (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 will be included in narratives above.)</p>																																												
<p>Regulatory Impact Table</p> <table border="1"> <thead> <tr> <th>Fiscal Cost</th> <th>FY2021</th> <th>FY2022</th> <th>FY2023</th> </tr> </thead> <tbody> <tr> <td>State Government</td> <td>\$375</td> <td>\$300</td> <td>\$300</td> </tr> <tr> <td>Local Governments</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Non-Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Other Persons</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Total Fiscal Cost</td> <td>\$375</td> <td>\$300</td> <td>\$300</td> </tr> <tr> <td>Fiscal Benefits</td> <td></td> <td></td> <td></td> </tr> <tr> <td>State Government</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Local Governments</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> </tbody> </table>	Fiscal Cost	FY2021	FY2022	FY2023	State Government	\$375	\$300	\$300	Local Governments	\$0	\$0	\$0	Small Businesses	\$0	\$0	\$0	Non-Small Businesses	\$0	\$0	\$0	Other Persons	\$0	\$0	\$0	Total Fiscal Cost	\$375	\$300	\$300	Fiscal Benefits				State Government	\$0	\$0	\$0	Local Governments	\$0	\$0	\$0	Small Businesses	\$0	\$0	\$0
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Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$(-375)	\$(-300)	\$(-300)

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Commerce, Chris Parker, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

The Division is proposing two amendments to the Chiropractic Physician Practice Act Rule. Section R156-73-501 concerns unprofessional conduct. The new Subsection R156-73-501(15) proposes patient referral compensation limits and standards. The new Subsection R156-73-501(16) establishes standards for bribery, kickbacks, rebates, and commissions. There are also minor edits made to improve clarity. Small Businesses (less than 50 employees): In Utah, there are an estimated 470 small businesses in Utah owned by individuals in the chiropractic profession (NAICS 621310). There are approximately 1,021 licensed chiropractic physicians who may be affected by these proposed amendments. The purpose of this rule is for deterrence and the usual licensee will have no direct or indirect fiscal impact. The Division estimates that the proposed amendments may result in one additional investigation of violations or complaints annually at a cost of \$300. No other impact to the state is expected beyond a minimal cost to the Division of approximately \$75 to disseminate this rule once the proposed amendments are made effective. Accordingly, no fiscal impact is expected for small businesses over and above any fiscal impact described in the fiscal note for the legislation as these costs are either inestimable or there is no fiscal impact. Non-Small Businesses: the proposed rule change for the Chiropractic Physician Practice Act are not expected to impact non-small businesses because there are no non-small businesses that are exclusively in the chiropractic profession (NAICS 621310) in Utah. For the same reasons as described above for small business as to the costs being inestimable for the reasons stated, or there is no fiscal impact.

B) Name and title of department head commenting on the fiscal impacts:

Chris Parker, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations

(required):		
Section 58-73-101	Subsection 58-1-106(1)(a)	Subsection 58-1-202(1)(a)

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/31/2020

B) A public hearing (optional) will be held:

On:	At:	At:
07/28/2020	9:00 am	Heber Wells Bldg, 160 E 300 S, fourth floor, Salt Lake City, UT. The rule hearing will be held electronically.

10. This rule change MAY become effective on: 08/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Mark B. Steinagel, Division Director	Date:	06/09/2020
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R156. Commerce, Occupational and Professional Licensing. R156-73. Chiropractic Physician Practice Act Rule. R156-73-501. Unprofessional Conduct.

- "Unprofessional conduct" includes:
- (1) keeping the office, instruments, laboratory, equipment, appliances or supplies in an unsafe or unsanitary condition;
 - (2) engaging in advertising [~~which~~that]:
 - (a) is misleading because of omission of necessary material information[?];
 - (b) [~~which~~]contains false or misleading statements[?]; or
 - (c) [~~which~~]otherwise operates to deceive;
 - (3) engaging in or abetting deceptive or fraudulent billing practices;
 - (4) engaging in sexual contact with a patient, with or without patient consent, within 12 months of last treatment;

NOTICES OF PROPOSED RULES

(5) engaging in sexual activities or contact with a former patient, with or without consent, after 12 months of last treatment if there is a risk of exploitation or potential harm to the former patient;

(6) engaging in behaviors in a patient[~~/~~]-doctor relationship, including verbal, intended to sexually arouse any person or encourage sexual activity;

(7) failing to keep the division informed of a current mailing address or email address in accordance with Section 58-1-301.7, or ~~and~~ of a current telephone number;

(8) advertising acupuncture services or practicing clinical acupuncture techniques beyond the scope of the certification held;

(9) advertising as an "acupuncturist" either verbally or in print;

(10) failing to maintain responsibility for care, billing, and documentation in a group practice, multidisciplinary practice, or third-party ownership practice;

(11) engaging in any act or practice in a professional capacity [which]that the licensee is not competent to perform through education or training;

(12) administering injections through the skin, limited to subcutaneous or intramuscular administration, of any substances other than non-prescription drugs as defined in Subsections 58-17b-102(39) or non-controlled substances as defined in Subsection 58-37-2(1)(f)(ii)(C);

(13) administering injections of non-prescription drugs or non-controlled substances without sufficient competency and training as demonstrated by the following:

(a) completion of a recognized course on injectables and their administration, under the sponsorship of or approved by an institution, organization, or association meeting the continuing education standards as defined in Section R156-73-303b; and

(b) receiving a passing score on a certifying examination;
~~and~~

(14) delegating the administration of injections to a chiropractic assistant;

(15) soliciting, receiving, or paying compensation to any person or entity for sending or referring a patient, in excess of \$50 per patient; and

(16) soliciting, receiving, or paying compensation to any person or entity for a product or service to or from a chiropractic physician or chiropractic facility, including commissions, rebates, kickbacks, or bribes.

KEY: chiropractors, licensing, chiropractic physician
Date of Enactment or Last Substantive Amendment: ~~August 24, 2009~~ **2020**
Notice of Continuation: February 11, 2016
Authorizing, and Implemented or Interpreted Law: 58-73-101; 58-1-106(1)(a); 58-1-202(1)(a)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-113	Filing No. 52839

Agency Information

1. Department:	Education
Agency:	Administration
Building:	Board of Education

Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R277-113. LEA Fiscal and Auditing Policies
3. Purpose of the new rule or reason for the change:
Rule R277-113 has been amended to incorporate requirements from H.B. 242 passed in the 2020 General Session applicable to charter schools.
4. Summary of the new rule or change:
Rule R277-113 has been amended to clarify requirements that local education agencies (LEAs) must include in fiscal and auditing policies, consolidate policy requirements and incorporate requirements from H.B. 242 (2020) applicable to charter schools.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have material fiscal impacts on state government revenues or expenditures. H.B.242 (2020) requires charter schools to use the same accounting methods as school districts. These rule changes clarify charter school fiscal and auditing policies to help them accomplish this task.
B) Local governments:
This rule change is not expected to have material fiscal impact on local governments' revenues or expenditures. H.B. 242 (2020) requires charter schools to use the same accounting methods as school districts. These rule changes clarify charter school fiscal and auditing policies to help them accomplish this task.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change is not expected to have material fiscal impact on small businesses' revenues or expenditures. H.B. 242 (2020) requires charter schools to use the same accounting methods as school districts. These rule

changes clarify charter school fiscal and auditing policies to help them accomplish this task.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industrial Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have material fiscal impacts on revenues or expenditures for persons other than small businesses, businesses, or local government entities. H.B. 242 (2020) requires charter schools to use the same accounting methods as school districts. These rule changes clarify charter school fiscal and auditing policies to help them accomplish this task.

F) Compliance costs for affected persons:

There are no compliance costs for affected persons. H.B. 242 (2020) requires charter schools to use the same accounting methods as school districts. These rule changes clarify charter school fiscal and auditing policies to help them accomplish this task.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0

Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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

H) Department head approval of regulatory impact analysis:

The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

B) Name and title of department head commenting on the fiscal impacts:

Sydnee Dickson, State Superintendent

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Article X, Section 3	Subsection 53E-3-501(1)(e)(iv)	Section 53E-5-202
Subsection 53E-3-401(4)	Section 53E-3-602	Subsection 53G-5-404(4)

Subsection 53E-3-501(1)(e)(i)	Section 53E-3-603	
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	07/31/2020
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10. This rule change MAY become effective on:	08/07/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stalling, Deputy Superintendent	Date:	06/18/2020
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**R277. Education, Administration.
R277-113. LEA Fiscal and Auditing Policies.
R277-113-1. Authority and Purpose.**

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;
 - (c) Subsection 53E-3-501(1)(e)(i), which directs the Board to establish rules and minimum standards for school productivity and cost effectiveness measures;
 - (d) Subsection 53E-3-501(1)(e)(iv), which allows the Board to adopt rules regarding financial, statistical, and student accounting requirements;
 - (e) Section 53E-3-602, which allows the Board to approve auditing standards for ~~school~~ LEA governing boards; ~~and~~
 - (f) Section 53E-3-603, which requires the Board to verify accounting procedures of ~~school~~ LEA governing boards for the purpose of determining the allocation of Uniform School Funds[-];
 - (g) Section 53E-5-202, which directs the Board to adopt rules to implement a statewide accountability system;
 - (h) Subsection 53G-5-404(4), which requires charter schools to make the same annual reports required of other public schools, including an annual financial audit report; and

- (i) ESSA, which requires states to revise and redesign school accountability systems.
- (2) The purpose of this rule is to:
 - (a) require LEAs to formally adopt and implement policies regarding the management and use of public funds;
 - (b) provide minimum standards, procedures and definitions for LEA policies;
 - (c) direct that LEAs make policies, procedures and training materials available to the public and readily accessible on LEA or public school websites, to the extent of resources available;
 - (d) require LEAs to train employees in:
 - (i) appropriate financial practices;
 - (ii) necessary accounting procedures; and
 - (iii) ethical financial practices; ~~and~~
 - (e) specify uniform budgeting, accounting, and auditing procedures for LEAs consistent with GAAP, ~~and~~ GAAS, and GAGAS[-]; and
 - (f) establish reporting and accounting requirements for LEAs to enable the Board to comply with ESSA.

R277-113-2. Definitions.

- (1) "Accrual basis of accounting" means a basis of accounting that records:
 - (a) revenue when earned and expenses when incurred; and
 - (b) transactions irrespective of the dates on which any associated cash flows occur.
- (2) "Administration" means:
 - (a) an LEA superintendent or director;
 - (b) a deputy or associate superintendent or director;
 - (c) a business administrator or manager; or
 - (d) another LEA educational administrator, designated staff, or a designated educational service provider.
- (~~3~~) "Arm's length transaction" means a transaction between two unrelated, independent, and unaffiliated parties or a transaction between two parties acting in their own self interest that is conducted as if the parties were strangers so that no conflict of interest exists.
- (~~3~~)4 "Exclusive contract or arrangement" means an agreement requiring a buyer to purchase or exchange all needed goods or services from one seller.
- (~~4~~)5 "FASB" means the Financial Accounting Standards Board whose purpose is to establish GAAP for nongovernmental entities within the United States.
- (~~5~~)6 "GAAP" means Generally Accepted Accounting Principles or a common framework of accounting rules and standards for financial reporting promulgated by either FASB or GASB, as applicable to the reporting entity.
- (~~6~~)7 "GAAS" means Generally Accepted Auditing Standards or a set of auditing standards and guidelines promulgated by the Auditing Standards Board of the American Institute of Certified Public Accountants.
- (8) "GAGAS" means Generally Accepted Government Auditing Standards or a set of auditing standards and guidelines promulgated by the Government Accountability Office.
- (~~7~~)9 "GASB" means the Governmental Accounting Standards Board whose purpose is to establish GAAP for state and local governments within the United States.
- (~~8~~)10 "Internal controls" means a process, implemented by an entity's governing body, ~~management~~ administration, or other personnel, designed to:
 - (a) provide reasonable assurance regarding the achievement of objectives in the following categories:

~~(a) i~~ ~~[E]~~ effectiveness and efficiency of operations;
~~(b) ii~~ ~~[R]~~ reliability of reporting for internal and external use; and

~~(e) iii~~ ~~[C]~~ compliance with applicable laws and regulations~~[-]~~;

~~(b)~~ provide reasonable assurance regarding the achievement of the following objectives over state and federal awards:

~~(i)~~ proper recording and accounting for transactions, in order to:

~~(A)~~ permit the preparation of reliable financial statements and state and federal reports;

~~(B)~~ maintain accountability over assets; and

~~(C)~~ demonstrate compliance with state and federal statutes, regulations, and the terms and conditions of state and federal awards; and

~~(ii)~~ execution of transactions in compliance with:

~~(A)~~ all state and federal statutes and regulations; and

~~(B)~~ the terms and conditions of state or federal awards; and

~~(c)~~ safeguard funds, property, and other against loss from unauthorized use or disposition.

~~(9) 11~~ "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

~~[~~ ~~10~~ ~~]"Management" means:~~

~~(a)~~ ~~an LEA superintendent or director;~~

~~(b)~~ ~~a deputy or associate;~~

~~(c)~~ ~~a business administrator or manager; or~~

~~(d)~~ ~~other educational administrator or designated staff.]~~

~~1 4 2~~ "Modified accrual basis of accounting" means a basis of accounting, commonly used by government agencies, that recognizes revenues when they become available and measurable and recognizes expenditures when liabilities are incurred.

~~1 2 3~~ "Non-operating LEA" means an LEA that has not received minimum school program funds or federal funds and is not providing educational services during a fiscal year, such as an LEA in a start-up period.

~~14~~ "N-size" means the minimum size necessary to disclose or display data to ensure maximum student group visibility while protecting student privacy.

~~1 3 5~~ "Operating LEA" means an LEA that has received state minimum school program funds or federal funds and is providing educational services during a fiscal year.

~~16~~ (a) "Provided, sponsored, or supported by a school" has the same meaning as defined in Section R277-407-2.

~~(b)~~ "Provided, sponsored, or supported by a school" does not apply to non-curricular clubs specifically authorized and meeting all criteria of Sections 53G-7-704 through 53G-7-707.

~~1 4 7~~ "Public funds" has the same meaning as that terms is defined in Subsection 51-7-3(26).

~~[~~ ~~15~~ ~~]"School sponsored" means an activity, fundraising event, club, camp, clinic, or other event or activity that is authorized by a specific LEA or public school, according to local board policy, and satisfies at least one of the following conditions:~~

~~(a)~~ ~~the activity is managed or supervised by an LEA or public school, or LEA or public school employee;~~

~~(b)~~ ~~the activity uses the LEA or public school's facilities, equipment, or other school resources; or~~

~~(c)~~ ~~the activity is supported or subsidized, more than inconsequentially, by public funds, including the public school's activity funds or minimum school program dollars.]~~

~~1 6 8~~ "Title IX" refers to that portion of the United States Education Amendments of 1972 codified as 20 U.S.C. 1681 through 20 U.S.C. 1688.

~~1 7 9~~ "Utah Public Officers' and Employees' Ethics Act," means Title 67, Chapter 16, which provides standards of conduct for officers and employees of the state of Utah and its political subdivisions in areas where there are actual or potential conflicts of interest between public duties and private interests.

R277-113-3. Superintendent Responsibilities.

(1) The Superintendent shall provide training, informational materials, and model policies for use by LEAs in developing LEA and public school-specific financial policies.

(2) The Superintendent shall provide online training and resources for LEAs regarding the use and management of public funds and ethical practices for licensed Utah educators who manage, control, participate in fundraising, or expend public funds.

~~(3)~~ The Superintendent shall provide training and informational materials for use by LEA governing boards in establishing their audit committees and internal audit programs in compliance with Section 53G-7-402.

~~(3) 4~~ The Superintendent shall provide and establish a cycle for state review of LEA fiscal policies and standards.

~~(4) 5~~ The Superintendent shall work with and provide information upon request to the Utah State Auditor's Office, the Legislative Fiscal Auditors, and other state agencies with the right to information from the Board.

[R277-113-4. LEA Fiscal Responsibilities.

~~(1) (a)~~ ~~An LEA shall develop and implement written fiscal policies, subject to approval by the LEA's board, as required by R277-113-5.~~

~~(b)~~ ~~An LEA shall review the LEA's fiscal policies annually.~~

~~(2)~~ ~~An LEA shall develop a plan for annual training of LEA and public school employees on policies enacted by the LEA specific to job function.~~

~~(3)~~ ~~LEA policies shall be available at each LEA main office, at individual public schools, and on the LEA's website.~~

~~(4)~~ ~~LEA fiscal policies and training may have different components, specificity, and levels of complexity for public elementary and secondary schools.~~

~~(5)~~ ~~An LEA may have one or more policies to satisfy the minimum requirements of this R277-113.~~

~~(6)~~ ~~An LEA policy may reference specific training manuals or other resources that provide detailed descriptions of business practices which are too lengthy or detailed to include in the LEA policy.~~

~~(7)~~ ~~An LEA governing board shall have the following responsibilities:~~

~~(a)~~ ~~ensure that LEA management properly develops and adheres to a sound system of documented internal controls consistent with R277-113-6.~~

~~(b)~~ ~~develop a process to regularly review:~~

~~(i)~~ ~~LEA management's budget and financial reporting practices;~~

~~(ii)~~ ~~financial statements;~~

~~(iii)~~ ~~LEA financial position; and~~

~~(iv)~~ ~~LEA and individuals school records;~~

~~(c)~~ ~~make monthly reports on the fiscal position of the LEA to the LEA board;~~

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~~(d) monitor LEA contract services by;~~
~~(i) determining the appropriate scope of contracts with management companies that provide business services and student services;~~
~~(ii) managing the procurement process in compliance with Title 63G, Chapter 6a;~~
~~(iii) making recommendations to the LEA board on the results of the procurement process;~~
~~(iv) assessing the performance of management companies; and~~
~~(v) ensuring management implements sufficient internal controls over the functions of management companies;~~
~~(e) monitor procurement and use of systems and software applications for compliance with financial and student privacy laws; and~~
~~(f) monitor LEA expenditure of restricted funds to ensure compliance with applicable laws and grant terms and conditions.~~
~~(8) A public education foundation established by an LEA shall follow the requirements set forth in Section 53E-3-403.]~~

R277-113-[5]4. LEA Audit Responsibilities.

(1) The presiding officer of an LEA governing board shall ensure that the members of the governing board and audit committee are provided with training on the requirements of Title 53G, Chapter 7, Part 4, Internal Audits, and this Section R277-113-4 as part of the member on-boarding process.
(2) The training described in Subsection (1) shall:
(a) comply with Title 63G, Chapter 22, State Training and Certification Requirements; and
(b) use the online training and informational materials provided by the Superintendent in accordance with Subsection R277-113-3(3).
(3) An LEA governing board shall:
(a) designate board members to serve on an audit committee, consistent with Subsection 53G-7-401(1)[-]; and
(b) maintain the following information on the LEA's website:
(i) names of the governing board members who serve on the audit committee; and
(ii) if required by Subsection 53G-7-402(2):
(A) the name and contact information of the internal audit director; and
(B) a copy of the LEA's annual audit plan.
(4) An LEA audit committee shall:
(a) ensure the LEA obtains all audits, agreed-upon procedures, engagements, and financial reports required by Section 51-2a-201 and Subsection 53G-5-404(4);
(b) provide an independent forum for internal auditors, internal audit contractors, and other regulatory bodies to report findings of fraud, waste, abuse, non-compliance, or control weaknesses, particularly if LEA administration is involved;
(c) ensure that corrective action on findings, concerns, issues and exceptions reported by independent external auditors, internal auditors, or other regulatory bodies are resolved in a timely manner by LEA administration;
(d) present, as appropriate, information and reports from the audit committee's meetings to the LEA board; and
(e) receive, as appropriate, reports of reviews, monitoring, or investigations conducted by LEA administration and ensure appropriate corrective action is taken in a timely manner.
(5) With regards to engagements completed by an independent external auditor, an LEA audit committee shall:

(a) manage the audit procurement and quality process in compliance with Title 63G, Chapter 6a, State Procurement Code and Rule R123-5;
(b) ensure that the independent external auditor has access to directly communicate with the audit committee;
(c) review disagreements between independent external auditors and LEA administration;
(d) consider LEA responses to audits or agreed-upon procedures; and
(e) determine the scope and objectives of other non-audit services, as necessary.
~~[(2)6] An LEA audit committee shall[-;~~
~~(a)-] if required by Section 53G-7-402[-];~~
(a) establish an internal audit program that provides internal audit services for the programs administered by the LEA;
~~[(b) receive a report of the risk assessment process undertaken by the LEA management in collaboration with the internal audit department;~~
~~(c) monitor the internal and external audit process by:~~
~~(i) determining the appropriate scope of the independent external audit;~~
~~(ii) determining the appropriate scope of non-audit services to be performed by the independent auditor;~~
~~(iii) managing the audit procurement process in compliance with Title 63G, Chapter 6a, State Procurement Code;~~
~~(iv) making recommendations to the LEA board on the results of the procurement process;~~
~~(v) facilitating regular direct communication with independent external auditors;~~
~~(vi) receiving independent external audit report and financial statements;~~
~~(vii) ensuring management implements corrective actions;~~
~~(viii) assessing performance of the independent auditors;~~
~~(ix) reviewing disagreements between independent auditors and management;~~
~~(x) prioritizing the internal audit plan based on risk;~~
~~(xi) receiving audit reports from internal auditors, contractors providing internal audit services, and other regulatory bodies; and~~
~~(xii) providing an independent forum for internal auditors, internal audit contractors, and other regulatory bodies to report findings of fraud, waste, abuse, non-compliance, or control weaknesses, particularly if management is involved;~~
~~(d) conduct or advise the LEA board in an annual evaluation of internal audit personnel or contractors providing internal audit services;~~
~~(e) ensure that issues and exceptions reported by internal auditors, or other regulatory bodies are resolved in a timely manner;~~
~~(f) present the audit reports of external auditors, internal auditors or other regulatory bodies to the LEA board;~~
~~(g) receive reports of reviews or audits conducted by the Superintendent and ensure appropriate corrective actions is taken in a timely manner; and~~
~~(h) advise the local LEA board in the appointment of an audit director or in contracting services for internal audit services in accordance with Subsection 53G-7-402(3).~~
~~(3)(a) An LEA shall follow the internal auditing requirements of Title 53G, Chapter 7, Part 4, Internal Audits.~~
~~(b) An LEA internal audit director may not have responsibilities for management or operations of the LEA.~~

~~(c) If an LEA internal audit director contracts with a consultant, any contractual agreement with the consultant shall comply with the LEA's procurement policy.~~

~~(4) An LEA shall obtain all audits and financial reports required by Section 51-2a-201.]~~

~~(b) advise the LEA board in the appointment of an audit director or in contracting for internal audit services in accordance with Subsection 53G-7-402(3);~~

~~(c) conduct or advise the LEA board in an annual evaluation of the internal audit director or contractors providing internal audit services;~~

~~(d) prioritize the internal audit plan based on risk;~~

~~(e) receive regular updates on the internal audit plan and internal audit project progress; and~~

~~(f) receive final internal audit reports from internal auditors or contractors providing internal audit services.~~

R277-113-[6]5. LEA Fiscal Responsibilities and Required[LEA] Fiscal Policies.

~~(1) An LEA shall review the LEA's fiscal policies and procedures regularly.~~

~~(2) An LEA shall develop a plan for annual training of LEA and public school employees on policies and procedures enacted by the LEA specific to job function.~~

~~(3) LEA fiscal policies and procedures shall be available at each LEA main office, at individual public schools, and be publicly available on the LEA's website.~~

~~(4) LEA fiscal policies, procedures, and training may have different components, specificity, and levels of complexity for public elementary and secondary schools.~~

~~(5) An LEA may have one or more policies to satisfy the minimum requirements of this R277-113.~~

~~(6) An LEA fiscal policy may reference specific training manuals or other resources that provide detailed descriptions of business practices which are too lengthy or detailed to include in the LEA policy.~~

~~(7) A public education foundation established by an LEA shall follow the requirements set forth in Section 53E-3-403.~~

~~(1)8(a) An LEA shall ensure that the LEA's written fiscal policies and procedures address all applicable [Utah Code references or Board Rules]state and federal statutes and regulations.~~

~~(b) The requirements set forth in this Section R277-113-[6]5 are minimum requirements.~~

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

~~(2)9) LEA fiscal policies shall include the following:~~

~~(a) a program accounting policy that establishes internal controls and procedures to record program revenues and expenditures in accordance with:~~

~~(i) GAAP; and~~

~~(ii) the school fee provisions in Section R277-407-13;~~

~~(b) a program accounting policy that:~~

~~(i) accurately reflects the use of funds for allowable costs and activities;~~

~~(ii) requires that transactions be recorded when they occur;~~

~~(iii) allows adjusting journal entries during the year and at the end of the year, in accordance with GAAP; and~~

~~(iv) requires that initial transactions, and adjusting entries if applicable, be recorded in the proper program, utilizing the~~

~~following codes as established by the Board approved chart of accounts:~~

~~(A) fund;~~

~~(B) function;~~

~~(C) program;~~

~~(D) location; and~~

~~(E) object or revenue code, as applicable;~~

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

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

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

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

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

~~(A) credit, debit, or purchase card transactions;~~

~~(B) employee reimbursements;~~

~~(C) travel; and~~

~~(D) payroll;~~

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

~~(A) fund;~~

~~(B) function;~~

~~(C) location;~~

~~(D) program; and~~

~~(E) object or revenue code as applicable;]~~

~~(ii[i]) directives regarding the appropriate use of the LEA's tax exempt status number;~~

~~([iv]iii) compliance with Section 63G-6a-1204 regarding length of multi-year contracts;~~

~~(iv) compliance with:~~

~~(A) Title 63G, Chapter 6a;~~

~~(B) Board rule regarding construction and improvements;~~

~~and~~

~~(C) Title IX;~~

~~(v[i]) requirements for LEA contracts, including:~~

~~(A) inclusion of specific scope of work language;~~

~~(B) inclusion of federal requirements;~~

~~(C) inclusion of language regarding data privacy and use, where appropriate; and~~

~~(D) legal review prior to LEA approval; and~~

~~(vi[i]) procedures and documentation maintained by the LEA if the LEA chooses to enter into exclusive contracts or arrangements consistent with state procurement law and the LEA procurement policy[-]; and~~

~~(vii) procedures for determining allowability of costs in accordance with relevant regulations and terms and conditions of awards;~~

~~([e]e) a fundraising policy that:~~

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

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

~~(iii) provides for compliance with school fee and fee waiver provisions outlined in Rule R277-407; and~~

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- (iv) includes:
 - (A) specific designation of employees by title or job description who are authorized to approve fundraising, school sponsored activities, and grant fee waivers with appropriate attention to student and family confidentiality;
 - (B) establishment of internal controls and procedures over the approval of fundraising and school sponsored activities and compliance with associated cash handling and expenditure policies;
 - (C) directives regarding the appropriate use of the LEA's tax exempt status number and issuance of charitable donation ~~[receipts]~~ written disclosure in accordance with IRS regulations;
 - (D) procedures governing LEA or public school employee interaction with parents, donors, and ~~[nonschool sponsored] organizations~~ doing fundraisers not provided, supported or sponsored, by a school or LEA;
 - (E) disclosure requirements for LEA and public school employees approving, managing, or overseeing fundraising activities, who also have a financial or controlling interest or access to bank accounts in the fundraising organization or company;
 - (F) Provisions establishing compliance with:
 - (I) Utah Constitution, Article X, Section 2, establishing a free public education system;
 - (II) R277-407; and
 - (III) Title IX;
 - (v) ~~[An LEA]~~ may include procedures governing:
 - (A) student participation and incentives offered to students;
 - (B) allowable types of individual or group fundraising activities; and
 - (C) participation in school sponsored activities by volunteer or outside organizations;
 - ~~(d)~~ f an LEA donation and gift policy that includes:
 - (i) an acceptance and approval process for:
 - (A) monetary donations;
 - (B) donations and gifts with donor restrictions;
 - (C) donations of gifts, goods, materials, or equipment; and
 - (D) donation of funds or items designated for construction or improvements of facilities;
 - (ii) establishment of internal controls and procedures over the acceptance and approval of donations and gifts and compliance with associated cash handling and expenditure policies;
 - (iii) directives regarding the appropriate use of the LEA's tax exempt status number, and issuance of charitable donation ~~[receipts]~~ written disclosure in accordance with IRS regulations;
 - (iv) procedures regarding the objective valuation of donations or gifts if advertising or other services are offered to the donor in exchange for a donation or gift;
 - (v) procedures governing LEA or public school employee conduct with parents, donors, and nonschool sponsored organizations;
 - (vi) procedures establishing provisions for direct donations or gifts to the LEA or LEA programs, individual public school or public school programs;
 - (vii) provisions restricting donations from being directed at specific LEA employees, individual students, vendors, or brand name goods or services;
 - (viii) compliance with:
 - (A) Title 63G, Chapter 6a;
 - (B) state law and Board rule regarding construction and improvements;
 - (C) IRS regulations and tax deductible directives; and
 - (D) Title IX;

- (ix) procedures for:
 - (A) accepting donations and gifts through an LEA's legally organized foundation, if applicable;
 - (B) recognition of donors; or
 - (C) granting naming rights; and
 - (e) an LEA Financial Reporting policy, which shall include the following:
 - (i) a requirement that the LEA shall ensure ~~[financial reporting in accordance with GAAP and]~~ external audits of LEA financial reporting, compliance, and performance, in accordance with GAAS and GAGAS;
 - (ii)(A) a requirement that the LEA shall provide financial reporting in a manner consistent with the basis of accounting as required by GAAP, as applicable to the entity; ~~[and]~~
 - (B) for state fiscal year 2020, if an LEA follows FASB standards, a requirement that the LEA shall provide reconciliation between the accrual basis of accounting and modified accrual basis of accounting; and
 - (C) beginning with state fiscal year 2021, a requirement that the basis of accounting will be GASB; and
 - (iii) a requirement that the LEA shall provide data and information consistent with budgeting, accounting, including the uniform chart of accounts for LEAs, and auditing standards for Utah LEAs provided online annually by the Superintendent.
- ([3]10) The Superintendent shall maintain a School Finance website with applicable Utah statutes, Board rules, and uniform rules for:
 - (a) budgeting;
 - (b) financial accounting, including a chart of accounts required for an LEA;
 - (c) student membership and attendance accounting;
 - (d) indirect costs and proration;
 - (e) financial audits;
 - (f) statistical audits; and
 - (g) compliance and performance audits.

R277-113-6. LEA Governing Board Fiscal Responsibilities.

- (1) An LEA governing board shall have the following responsibilities:
 - (a) approve written fiscal policies and procedures required by Section R277-113-5;
 - (b) ensure, considering guidance in "Standards for Internal Control in the Federal Government," issued by the Comptroller General of the United States or the "Internal Control Integrated Framework," issued by the Committee of Sponsoring Organizations of the Treadway Commission, that LEA administration establish, document, and maintain an effective internal control system for the LEA;
 - (c) develop a process to regularly discuss and review LEA:
 - (i) budget and financial reporting practices;
 - (ii) financial statements and annual financial and program reports;
 - (iii) financial position;
 - (iv) expenditure of restricted funds to ensure administration is complying with applicable laws, regulations, and award terms and conditions; and
 - (v) systems and software applications for compliance with financial and student privacy laws;
 - (d) receive the results of required annual audits from the external auditor in accordance with Section R123-5-5;

(e) oversee procurement processes in compliance with Title 63G, Chapter 6a, Utah Procurement Code, and Rule R277-115, including:

(i) reviewing the scope and objectives of LEA contracts or subawards with entities that provide business or educational services; and

(ii) receiving reports regarding the compliance and performance of entities with contracts or subawards;

(f) ensure the procurement process for an external auditor is in compliance with Section R123-5-4;

(g) ensure LEA administration implements sufficient internal controls over the functions of entities with contracts or subawards to perform services on behalf of the LEA;

(2) An LEA governing board shall:

(a)(i) provide a hotline independent from administration for stakeholders to report concerns of fraud, waste, abuse, or non-compliance; and

(ii) post on the school's website in a readily accessible location:

(A) a hotline phone number;

(B) a hotline email; or

(C) an online complaint form; or

(b) post a link on the school's website in a readily accessible location with contact information for the Board's hotline.

R277-113-7. Reporting of School Level Expenditures.

(1) In accordance with ESSA, the Superintendent shall make public the per pupil expenditures of federal, state, and local funds, for each LEA and each school in the state.

(a) The Superintendent shall exclude expenditures that:

(i) are non-current;

(ii) do not reflect the day-to-day operations of an LEA or school;

(iii) do not contribute to k-12 education; or

(iv) are significant, unique expenditures that may skew data in certain years and thwart year-to-year comparison.

(b) The Superintendent shall publish and make available a comprehensive list of expenditures that are excluded from per pupil expenditure information.

(2) The Superintendent's school level report for each school shall include:

(a) average daily membership for the fiscal year covered by the report;

(b) an indicator if the school is:

(i) a Title I School; or

(ii) a Necessarily Existent Small School;

(c) grade levels served by each school;

(d) student demographics;

(e) expenditures recorded at the school level and central expenditures allocated to each school by:

(i) federal program expenditures; and

(ii) state and local combined expenditures;

(f) calculated per pupil expenditures; and

(g) average teacher salary.

(3) The Superintendent may not report expenditure data for a school with an n-size of less than 10.

R277-113-8. LEA Accounting Requirements.

(1) Each LEA shall:

(a) record revenues and expenditures in compliance with the Board approved chart of accounts;

(b) record expenditures using school location codes that can be mapped to official school location codes used in the Board system of record;

(c) record expenditures using approved district and school codes in the Board system of record;

(d) submit expenditures using location codes in the UPEFS system; and

(e) perform program accounting in accordance with GAAP and this rule.

(2) Each LEA shall record and report the following expenditures for each school annually:

(a) salaries;

(b) benefits;

(c) supplies;

(d) contracted services; and

(e) equipment.

(3) If an LEA pays for contracted services that occur at the school level, the LEA shall record the payments to the contractors in the appropriate function and object codes established under Subsection (2) at the school level.

(4)(a) An LEA shall record centralized administrative costs to the administrative location code.

(b) The Superintendent shall allocate such costs to each school based on school enrollment.

(5) The Superintendent shall present one expenditure report for a school receiving more than one report card under Subsection R277-497-4(8).

(6) If an LEA reports expenditures in programs, the LEA shall report the expenditures to one or more schools.

R277-113-[7]9. ~~School Sponsored~~ Activities Provided, Sponsored, or Supported by a School.

~~(1)(a) If an activity, fundraising event, clinic, club, camp, or activity does not meet the definition of school sponsored and is organized by a third party, then the requirements of Subsection R277-113-4(11) do not apply.~~

~~(b) All transactions pertaining to nonschool sponsored events shall be conducted at arm's length.~~

~~(c) Revenues and expenditures from nonschool sponsored events may not be commingled with public funds.~~

~~(2) For nonschool sponsored events, funds may only be managed or held by a public school employee consistent with Rule R277-107.~~

~~(3) The definition of school sponsored and requirements of Subsection R277-113-4(11) do not apply to non-curricular clubs specifically authorized and meeting all criteria of Sections 53G-7-704 through 53G-7-707.~~

~~(4) An LEA or individual public school shall comply with the following regarding school and nonschool sponsored activities:~~

~~(a) An LEA may establish LEA specific rules or policies designating categories of school sponsored activities or groups and establishing LEA policy regarding use of facilities or LEA resources.~~

~~(b) An LEA may enter into contractual agreements to allow for fundraising and use of LEA facilities.~~

~~(i) An agreement under Subsection (4)(a) shall take into consideration the LEA's fiduciary responsibility for the management and use of public funds.~~

~~(ii) An LEA should consult with the LEA's insurer or legal counsel, or both, to ensure risks are adequately considered and managed;~~

~~(c) An LEA shall annually review fundraising activities that support or subsidize LEA or public school authorized clubs;~~

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activities, sports, classes or programs to determine if the activities are school sponsored;

~~(d) An LEA shall ensure that revenues raised from school sponsored activities and funds expended from the proceeds are classified and processed as public funds;~~

~~(e) An LEA shall maintain adequate records to verify that funds collected from or during school sponsored activities are in compliance with LEA cash handling policies as required by Section R277-113-5;~~

~~(f) An LEA shall maintain adequate records to show that expenditures made to support activities from LEA or public school funds are in compliance with LEA expenditure of funds policies as required by Section R277-113-5; and~~

~~(g) An LEA shall:~~

~~(i) make records of activities available to parents, students, and donors;~~

~~(ii) maintain records in sufficient detail to track individual contributions and expenditures, as well as overall financial outcome.~~

~~(iii) restrict access to records as required by state or federal law.]~~

(1) An LEA or school shall comply with this Section R277-113-9 for all activities provided, sponsored, or supported by a school.

(2) An LEA shall ensure that revenues raised from or during activities provided, sponsored, or supported by a school are classified, recorded, and deposited as public funds in compliance with LEA cash handling, program accounting, and expenditure of funds policies as required by Section R277-113-5.

(3) An LEA shall:

(a) maintain records in sufficient detail to:

(i) track individual contributions and expenditures;

(ii) track overall financial outcomes; and

(iii) verify compliance with relevant regulations; and

(b) make records of activities available to parents, students, and donors, except as restricted by state or federal law;

(4) An LEA may establish LEA-specific rules or policies:

(a) designating categories of activities or groups as provided, sponsored, or supported by the school; and

(b) regarding use of facilities or LEA resources.

(5) An LEA shall document their annual review of fundraising activities that support or subsidize LEA or public school-authorized clubs, activities, sports, classes, or programs to determine if the activities are provided, sponsored, or supported by a school.

(6)(a) An LEA may enter into contractual agreements to allow for fundraising and use of LEA facilities.

(b) An agreement under Subsection (6)(a) shall take into consideration the LEA's fiduciary responsibility for the management and use of public funds, resources, and assets.

(c) An LEA shall review an agreement under Subsection (6)(a) with the LEA's insurer or legal counsel to consider risk to the LEA.

(7) An LEA shall comply with this Subsection (7) for any activity not provided, sponsored, or supported by a school:

(a) An LEA shall conduct all transactions at arm's length;

(b) An LEA may not co-mingle revenue and expenditures with public funds; and

(c) A public school employee may only manage or hold funds consistent with Rule R277-107.

R277-113-[8]10. LEA Policies and Compliance with State and Federal Law.

(1) An LEA is responsible to ensure that its policies comply with the following[~~state laws and Board Rules~~]:

- (a) Utah Constitution Article X, Section 3;
- (b) Title 63G, Chapter 6a, Utah Procurement Code;
- (c) Title 51, Chapter 4, Deposit of Funds Due State;
- (d) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;

(e) Family Educational Rights and Privacy Act, 20 U.S.C. 1232g;

(f) Title 63G, Chapter 2, Government Records Access and Management Act;

(g) Title 53G, Chapter 7, ~~Student Fees~~;~~[and]~~

~~(h) Title 53G, Chapter 6, Textbook[s] Fees;~~

~~([h]i) Section [53A-4-205]53E-3-403, Establishment of Public Education Foundations;~~

~~([i]j) Title 53G, Chapter 7, Part 7, Student Clubs Act;~~

~~([j]k) Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local Entities Act;~~

~~([k]l) Additional state legal compliance guides for operating LEAs and non-operating LEAs as published by the office of the state Auditor;~~

~~([l]m) Subsection 51-7-3(26), Definition of Public Funds;~~

~~([m]n) Title 53G, Chapter 7, Part 4, Internal Audits;~~

~~([n]o) Rule R277-407, School Fees;~~

~~([o]p) Rule R277-107, Educational Services Outside of Educator's Regular Employment;~~

~~([p]q) Rule R277-[545]217, Utah Educator Standards;~~

~~([q]r) Rule R277-605, Coaching Standards and Athletic Clinics[-];~~

~~(s) Rule R123-5, Audit Requirements for Audits of Political Subdivisions and Governmental Nonprofit Corporations; and~~

~~(t) 2 C.F.R. 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.~~

(2) An LEA shall include the following requirements of Title IX in LEA policies:

(a) Fundraising shall equitably benefit males and females;

(b) Males and females shall have reasonably equal access to facilities, fields, and equipment;

(c) School sponsored activities shall be reasonably equal for males and females.

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

Date of Enactment or Last Substantive Amendment: ~~June 22, 2018~~2020

Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53E-3-401(4); 53E-3-501(1)(e)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-303	Filing No. 52845

Agency Information

1. Department:	Education
Agency:	Administration
Building:	Board of Education
Street address:	250 E 500 S

City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R277-303. Educator Preparation Programs
3. Purpose of the new rule or reason for the change:
The amendments in this rule are made from feedback from stakeholders and experience gained in implementing the new licensing structure.
4. Summary of the new rule or change:
The amendments in the rule are technical changes made from feedback from stakeholders and experience gained in implementing the new licensing structure.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have material fiscal impact on state government revenues or expenditures. The amendments in this rule change are primarily technical and clarifying in nature.
B) Local governments:
This rule change is not expected to have material fiscal impact on local governments' revenues or expenditures. The amendments in this rule change are primarily technical and clarifying in nature.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change is not expected to have material fiscal impact on small businesses' revenues or expenditures. The amendments in this rule change are primarily technical and clarifying in nature.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industrial Classification System (NAICS) 611110). Because there are no non-small businesses,

they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have material fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The amendments in this rule change are primarily technical and clarifying in nature.

F) Compliance costs for affected persons:

There are no compliance costs for affected persons. The amendments in this rule change are primarily technical and clarifying in nature.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

NOTICES OF PROPOSED RULES

Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head approval of regulatory impact analysis:			
The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.			
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:			
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.			
B) Name and title of department head commenting on the fiscal impacts:			
Sydnee Dickson, State Superintendent			

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):		
Article X, Section 3	Section 53E-6-302	Subsection 53E-6-201(3)(a)
Subsection 53E-3-401(4)		

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	07/31/2020

10. This rule change MAY become effective on:	08/07/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	06/15/2020
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R277. Education, Administration.

R277-303. Educator Preparation Programs.

R277-303-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;
 - (c) Subsection 53E-6-201(3)(a), which ~~allows~~ directs the Board to establish the criteria for obtaining licenses; and
 - (d) Section 53E-6-302, which requires the Board to establish standards for approval of educator preparation programs.
- (2) The purpose of this rule is to establish criteria for educator preparation programs in the State of Utah.

R277-303-2. Definitions.

- (1)(a) "Educator preparation program" means a comprehensive program administered by an entity that is intended to prepare individuals to meet the requirements for a Utah professional license or license area of concentration.
- (b) "Educator preparation program" may include a program developed by or associated with an institution of higher education, individual LEA, a consortium of LEAs, or the Board.
- (2) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.
- (3) "License area" has the same meaning as set forth in Subsection R277-301-2(5)(a).
- (4) "Professional license" means the educator license described in Section R277-301-6.

R277-303-3. Educator Preparation Program Review and Approval.

- (1) The Superintendent shall establish uniform procedures for initial approval and review of educator preparation programs to ensure compliance with this R277-303.
- (2) The Superintendent shall approve an educator preparation program that meets the requirements of this rule and the standards for program approval established in:
 - (a) Rule R277-304;
 - (b) Rule R277-305;
 - (c) Rule R277-306; and
 - (d) all other applicable Board rules.
- (3) The Superintendent shall conduct an on[-]going review of approved educator preparation programs and shall renew or deny approval for a program at least every seven years.

(4) The Superintendent may grant preliminary approval to a new educator preparation program within a Utah public college or university pending approval by the Utah State Board of Regents.

(5) The Superintendent shall make a report to the Board when an educator preparation program's initial application for approval is granted or denied.

(6) The Superintendent may place an approved educator preparation program on probation for:

(a) failure to meet program requirements detailed in applicable Board rules; or

(b) failure to submit complete and accurate information in a report required under this rule.

(7) The Board may revoke the approval of a probationary program that fails to meet probationary requirements with at least one year's notice to the educator preparation program.

(8) The Superintendent may require a program or subset of programs to submit reports to inform the annual report to the Board required in Section R277-301-10.

(9) The Superintendent shall accept an approved educator preparation program's recommendations for a professional license or license area if the prospective licensee ~~has met~~ meets all other requirements of Board rule.

R277-303-4. Educator Preparation Programs.

(1) An educator preparation program that applies for approval by the Superintendent shall demonstrate how it will ensure that participants:

(a) are prepared to meet the Utah Effective Educator Standards established in R277-530;

(b) successfully complete or are prepared to complete the pedagogical performance assessment required in R277-301;

(c) have met the competencies required in ~~R277-301~~ all applicable Board rules; and

(d) have sufficiently demonstrated the ability to work in the applicable license area and subject area.

(2) In addition to the requirements of Subsection (1), an educator preparation program that is not also a Utah LEA shall:

(a) have a physical location in the state of Utah where participants attend classes; or

(b) if the program provides only online instruction:

(i) have the program's primary headquarters located in Utah; and

(ii) be licensed to do business through the Utah Department of Commerce; and

(c) establish entry requirements that are designed to ensure that only high quality individuals enter the preparation program, which include measures of:

(i) previous academic success;

(ii) disposition for employment in an educational setting; and

(iii) basic skills in reading, writing, and mathematics; and

~~_____ (d) include a student teaching or intern experience that meets the requirements detailed in:~~

~~_____ (i) Rule R277-304;~~

~~_____ (ii) Rule R277-305; and~~

~~_____ (iii) Rule R277-306; and~~

~~_____ (e) include a pedagogical performance assessment meeting standards established by the Superintendent and approved by the Board for all new students enrolled in the program after January 1, 2020 and recommended for a Utah educator license after August 1, 2021 in all license areas for which such an assessment is available.~~

(3)(a) If the Superintendent denies an application from an educator preparation program, the proposed educator preparation

program may appeal the Superintendent's decision to the Board by submitting a written appeal to the Board Secretary.

(b) The Board shall assign an appeal under Subsection (3)(a) to a standing committee to make a recommendation to the full Board for final action.

(4) An approved educator preparation program may recommend an individual that completed the program for a professional license or license area for up to five years after the individual completed the program, as long as all current license requirements have been met.

(5) If five years have passed since an individual completed an approved educator preparation program, the program may recommend the individual for a professional license or license area if the program:

(a) reviews the individual's program; and

(b) requires the individual to complete any additional necessary requirements to meet current programs standards prior to making a licensing recommendation.

~~(6)(a) [Notwithstanding Subsections (4) and (5), an] An approved educator preparation program may recommend an individual who began the program before January 1, 2020 for a professional license or license area without meeting the pedagogical performance assessment requirement in R277-301, but must present documentation showing that the individual met the appropriate license requirements in effect prior to that date.~~

~~(b) Subsection (6)(a) supersedes Subsections (4) and (5).~~

R277-303-5. Superintendent Responsibilities.

(1) The Superintendent shall provide support to educator preparation programs and potential licensees to the extent that funding allows by:

(a) maintaining a website to:

(i) facilitate collaboration between educator preparation programs;

(ii) facilitate communication between potential educators and approved programs; and

(iii) provide access to up-to-date research on educator preparation and education practices;

(b) reviewing third-party preparation materials for alignment with the Utah Effective Educator Standards in R277-530; and

(c) working with potential licensed educators to help them become licensed educators.

(2) The Superintendent shall design and maintain a model educator preparation program that:

(a) meets all requirements of ~~this rule~~ all applicable Board rules;

(b) may be adopted by an LEA or an accredited private school; and

(c) is overseen by staff distinct from the staff responsible for ensuring educator preparation program compliance with ~~this Rule R277-303~~ all applicable Board rules.

~~R277-303-6. Effective Date.~~

~~This rule will be effective beginning January 1, 2020.]~~

KEY: educator preparation program, pedagogical assessment, professional competency, programs

Date of Enactment or Last Substantive Amendment: ~~July 2, 2019~~ 2020

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-6-201(3)(a)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-318	Filing No. 52811

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
R277-318. Teacher Salary Supplement Program
3. Purpose of the new rule or reason for the change:
As a result of H.B. 141 passed in the 2020 General Session, this rule is being updated.
4. Summary of the new rule or change:
The amendments are updating the application deadline and making a technical change regarding funds distribution.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. H.B. 141 (2020) required the updates to this rule.
B) Local governments:
This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. H.B. 141 (2020) required the updates to this rule.
C) Small businesses ("small business" means a business employing 1-49 persons):

This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. H.B. 141 (2020) required the updates to this rule.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. H.B. 141 (2020) required the updates to this rule.

F) Compliance costs for affected persons:

There are no independent compliance costs for affected persons. H.B. 141 (2020) required the updates to this rule.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0

Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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

H) Department head approval of regulatory impact analysis:

The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses revenues or expenditures because there are no applicable large businesses and it does not require any expenditures of or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

B) Name and title of department head commenting on the fiscal impacts:

Sydnee Dickson, State Superintendent

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Article X, Section 3	Subsection 53E-3-401(4)	Section 53F-2-504
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also

request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/31/2020

B) A public hearing (optional) will be held:

10. This rule change MAY become effective on: 08/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	06/04/2020
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R277. Education, Administration.

R277-318. Teacher Salary Supplement Program.

R277-318-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
 - (c) Section 53F-2-504, which directs the Board to make rules regarding the administration of the Teacher Salary Supplement Program.

- (2) The purpose of this rule is to establish application and appeal procedures for administration of the Teacher Salary Supplement Program.

R277-318-2. Definitions.

- (1) "Eligible teacher" means the same as that term is defined in Subsection 53F-2-504(1)([e]a).
- (2) "Substantially equivalent" means commonly recognized by a Utah university for a degree in a specific subject.
- (3) "Teacher Salary Supplement Program" or "TSSP" means the salary supplement program authorized by the Legislature in Section 53F-2-504.

R277-318-3. Program Administration.

- (1) The Superintendent shall allocate funds for salary supplements to eligible teachers in accordance with Subsection 53F-2-504(3).

NOTICES OF PROPOSED RULES

(2) The Superintendent shall maintain an online application system for the TSSP and make it available to educators no later than October 1 of each school year.

(3) In order to receive an award under this program, an applicant for the TSSP shall apply to the Superintendent by the following deadlines for each school year in which the applicant is an eligible teacher:

(a) for trimester payments to the educator, prior to November 15;

(b) for semester payments to the educator, prior to January 31; and

(c) for an annual payment to the educator, prior to April 30.

(4)(a) Beginning in the 2021-22 school year, an applicant shall submit an application in the first year the applicant is an eligible teacher.

(b) The Superintendent shall use an applicant's application for all subsequent years that the applicant remains eligible.

(4)(a) If an applicant is denied funds under this rule, the applicant may submit a written appeal to the Superintendent prior to June 1 of each school year.

(b) An appeal under Subsection (4)(a) is limited to the following issues:

(i) whether the applicant has a degree or degree major with course requirements that are substantially equivalent to the course requirements for a degree listed in Section 53F-2-504;

(ii) whether the applicant has met the qualifying teaching background requirements described in Section 53F-2-504;

(iii) whether the Superintendent's initial denial was inconsistent with Section 53F-2-504 or this Rule R277-318; or

(iv) whether the Superintendent's initial denial was based on inaccurate or incomplete information.

(c) The Superintendent may designate a panel of at least two Board staff members to review an appeal made under Subsection (4)(a) and to make a recommendation to the Superintendent.

(i) A panel designated in accordance with Subsection (4)(c) shall make a recommendation in accordance with the provisions of Section 53F-2-504 or this Rule R277-318.

(ii) The panel shall make a recommendation on an appeal within 30 days of receipt of the written appeal.

(5)(6) The Superintendent shall issue a ruling on an appeal within 15 days of receipt of the panel's recommendation.

(6)(7) The decision of the Superintendent on an appeal is the final Board administrative action.

(7)(8) If the appropriation for TSSP is insufficient to cover all eligible teachers entitled to awards, the Superintendent shall may reduce all awards by the same ratio and proportion.

KEY: Teacher Salary Supplement Program, salary
Date of Enactment of Last Substantive Amendment: ~~October 8, 2019~~ 2020
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53F-2-504

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-409	Filing No. 52835

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	

Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
R277-409. Public School Membership in Associations

3. Purpose of the new rule or reason for the change:
H.B. 344, passed in the 2020 General Session, provides that a sex offender may not serve as an athletic coach, manager, or trainer for any sports team of which a minor is a member. The amendments in the rule are in response to H.B. 344.

4. Summary of the new rule or change:
The amendment clarifies that a sex offender may not serve in the positions specified in H.B. 344 (2020).

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have material fiscal impact on state government revenues or expenditures. H.B. 344 from the 2020 General Session prohibits a sex offender from serving as an athletic coach, manager, or trainer for any sports team of which a minor is a member. This amendment incorporates these new requirements in law.

B) Local governments:
This rule change is not expected to have material fiscal impact on local governments' revenues or expenditures. H.B. 344 (2020) prohibits a sex offender from serving as an athletic coach, manager, or trainer for any sports team of which a minor is a member. This amendment incorporates these new requirements in law.

C) Small businesses ("small business" means a business employing 1-49 persons):
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This rule change is not expected to have material fiscal impact on small businesses' revenues or expenditures. H.B. 344 (2020) prohibits a sex offender from serving as an athletic coach, manager, or trainer for any sports team of which a minor is a member. This amendment incorporates these new requirements in law.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industrial Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have material fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. H.B. 344 (2020) prohibits a sex offender from serving as an athletic coach, manager, or trainer for any sports team of which a minor is a member. This amendment incorporates these new requirements in law.

F) Compliance costs for affected persons:

There are no compliance costs for affected persons. H.B. 344 (2020) prohibits a sex offender from serving as an athletic coach, manager, or trainer for any sports team of which a minor is a member. This amendment incorporates these new requirements in law.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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

H) Department head approval of regulatory impact analysis:

The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

B) Name and title of department head commenting on the fiscal impacts:

Sydnee Dickson, State Superintendent

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Article X, Section 3	Subsection 53E-3-401(4)	
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	07/31/2020
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10. This rule change MAY become effective on:	08/07/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	06/18/2020
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R277. Education, Administration.

R277-409. Public School Membership in Associations.

R277-409-1. Authority and Purpose.

(1) This rule is authorized by:
(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

(2) The purpose of this rule is to place limitations on public school membership in certain associations with rules or policies that conflict with Board policies.

R277-409-2. Definitions.

(1) "Association" means an organization that governs or regulates a student's participation in an interscholastic activity.

(2) "Interscholastic activity" means an activity within the state in which the students that participate represent a school in the activity.

- (3) "Recruiting" means a solicitation or conversation:
- (a) initiated by:
 - (i) an employee of a school or school district;
 - (ii) a coach or advisor of an interscholastic activity; or

(iii) a member of a booster, alumni, or other organization that performs a substantially similar role as a booster organization, affiliated with a school or school district; and

(b) to influence a student, or the student's relative or legal guardian, to transfer to a school for the purpose of participating in an interscholastic activity at the school.

(4) "Sex offender" has the same meaning as described in Section 77-27-21.7.

R277-409-3. Membership Restrictions.

(1) Beginning with the 2017-2018 school year, a public school may not be a member of, or pay dues to an association that adopts rules or policies that are inconsistent with this R277-409-3.

(2) An association shall permit the Board to audit the association's:

- (a) financial statements; and
- (b) compliance with Utah Code, Board rule, and the association's bylaws, policies, rules, and best practices.

(3) An association may not treat similarly situated schools differently in the association's designation of division classifications, or in applying other association policies, based solely on the school's status as a charter school or district public school.

(4) An association may sanction a school, coach, or individual who oversees or works with students as part of an interscholastic activity of a public school if the association finds that the coach or individual:

- (a) engaged in recruiting activities; or
- (b) violated any other rule or policy of the association.

(5) An association shall establish a policy or rule to govern the association's use of student data that complies with the student data privacy requirements of:

- (a) FERPA;
- (b) Title 53E, Chapter 9, Part 3, Student Data Protection Act;

(c) Title 53E, Chapter 9, Part 2, Utah Family Educational Rights and Privacy Act; and

(d) R277-484.

(6) An association shall establish policies or rules that require:

- (a) coaches and individuals who oversee interscholastic activities or work with students as part of an interscholastic activity to meet a set of professional standards that are consistent with the Utah Educator Professional Standards described in Rule R277-~~545~~217; and
- (b) the association or public school to annually train each coach or other individual who oversees or works with students as part of an interscholastic activity of a public school on the following:

- (i) child sexual abuse prevention as described in Section 53G-9-207;
- (ii) the prevention of bullying, cyber-bullying, hazing, harassment, and retaliation as described in:
 - (A) Title 53G, Chapter 9, Part 6, Bullying and Hazing; and
 - (B) R277-613; and

(iii) the professional standards described in Subsection (6)(a).

(7) An association shall establish procedures and mechanisms to:

(a) monitor LEA compliance with the association's training requirements described in Subsection (6);

(b) sanction individuals who violate the association's professional standards described in Subsection (6)(a);

(c) track individuals who violate the association's standards described in Subsection (6)(a); and

(d) prohibit individuals who have violated the association's standards described in Subsection (6)(a), including sex offenders, from coaching, managing, overseeing, training, or working with students as part of an interscholastic activity.

(8) An association shall establish a policy or rule that requires the association to follow requirements similar to the requirements of:

(a) Title 52, Chapter 4, Open and Public Meetings Act; and

(b) Title 63G, Chapter 2, Government Records Access and Management Act.

KEY: schools, memberships, associations

Date of Enactment or Last Substantive Amendment: [~~December 8, 2016~~]**2020**

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-444	Filing No. 52846

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R277-444. Distribution of Money to Arts and Science Organizations
3. Purpose of the new rule or reason for the change:
The rule change is an amendment and was up for its five-year review. The amendments include removal of portions of the programs that are outdated or no longer being implemented.
4. Summary of the new rule or change:

The rule was amended to delete outdated language references programs that no longer exist.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have material fiscal impact on state government revenues or expenditures. The rule change removes outdated references to programs that no longer exist.
B) Local governments:
This rule change is not expected to have material fiscal impact on local governments' revenues or expenditures. The rule change removes outdated references to programs that no longer exist.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change is not expected to have material fiscal impact on small businesses' revenues or expenditures. The rule change removes outdated references to programs that no longer exist.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industrial Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):
This rule change is not expected to have material fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The rule change removes outdated references to programs that no longer exist.
F) Compliance costs for affected persons:
There are no compliance costs for affected persons. The rule change removes outdated references to programs that no longer exist.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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

H) Department head approval of regulatory impact analysis:

The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education

agencies and will not have a fiscal impact on small businesses either.

B) Name and title of department head commenting on the fiscal impacts:

Sydnee Dickson, State Superintendent

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Article X, Section 3	Subsection 53E-3-401(4)	Section 53E-3-501
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/31/2020

10. This rule change MAY become effective on: 08/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	06/15/2020
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R277. Education, Administration.

R277-444. Distribution of Money to Arts and Science Organizations.

R277-444-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision of the public school system with the Board;

(b) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities; and

(c) Section 53E-3-501, which directs the Board to establish rules and standards for the public schools, including curriculum and instruction requirements.

(2) The purpose of this rule is to provide for the distribution of money appropriated by the state to an arts or science organization that:

(a) provides an educational service to a student or teacher; and

(b) facilitates a student developing and using the knowledge, skills, and appreciation defined in an arts or science core standard.

R277-444-2. Definitions.

(1) "Arts organization" means a professional artistic organization that provides an educational service related to dance, music, drama, art, visual art, or media art in the state.

(2) "City" has the same meaning as that term is defined in Subsection 10-1-104(1).

(3) "Community" means the group of persons that have an interest or involvement in the education of a person in kindergarten through grade 12, including:

(a) a student, parent, teacher, and administrator; and

(b) an association or council that represents a person described in Subsection (2)(a).

(4) "Core standard" means a standard:

(a) established by the Board in Rule R277-700 as required by Section 53E-3-501; and

(b) that defines the knowledge and skills a student should have in kindergarten through grade 12 to enable a student to be prepared for college or workforce training.

(5) "Cost effectiveness" means:

(a) maximization of the educational potential of the resources available through the organization; and

(b) not using money received through a program for the necessary maintenance and operational costs of the organization.

(6)(a) "Educational service" means an in-depth instructional workshop, demonstration, presentation, performance, residency, tour, exhibit, teacher professional development, side-by-side mentoring, or hands-on activity that:

(i) relates to an arts or science core standard;

(ii) except as provided in Subsection (6)(b), takes place in a public school, charter school, professional venue, or a facility;

(b) "Educational service" may include a distance experience that is provided from a remote location if done in addition to the requirements of Subsection (6)(a) ~~as a follow-up experience~~.

(7) "Educational soundness" means an educational service that:

(a) is designed for the community and grade level being served, including a suggested preparatory activity and a follow-up activity that are relevant to a core standard;

(b) features literal interaction of a student or teacher with an artist or scientist;

(c) focuses on a specific core standard; and

(d) shows continuous improvement guided by analysis of an evaluative tool.

(8) "Fiscal agent" means a city that:

(a) is designated by an organization as described in Subsection R277-444-4(5); and

(b) acts on behalf of an organization to perform financial or compliance duties.

(9) "Hands-on activity" means an activity that includes active involvement of a student with an artist or scientist, ideally with material provided by the organization.

(10) "Informal Science Education Enhancement program" or "iSEE program" means a program described in Section R277-444-7 for which a science organization may apply to receive money appropriated by the state.

(11) "Organization" means:

(a) a nonprofit corporation organized under:

(i) Title 16, Chapter 6a, Utah Revised Nonprofit Corporation

Act; or

(ii) Section 501(c)(3), Internal Revenue Code; and

(b)(i) an arts organization; or

(ii) a science organization.

(12) "Procedural efficiency" means the organization delivers the educational service at the lowest cost possible.

(13) "Professional excellence" means the organization:

(a) has been juried or reviewed, based on criteria for artistic or scientific excellence, by a panel of recognized and qualified critics in the appropriate discipline;

(b) has received a recognition of excellence through an award, a prize, a grant, a commission, or an invitation to participate in a recognized series of presentations in a well-known venue;

(c) includes a recognized and qualified professional in the appropriate discipline who has created an artistic or scientific project or composition specifically for the organization to present; or

(d) any combination of criteria described in Subsections (13)(a) through (c).

(14) "Professional outreach programs in the schools program" or "POPS program" means a program described in Section R277-444-7 for which an arts organization may apply to receive money appropriated by the state.

(15)(a) "Program" means the system through which the Board grants money appropriated by the state to an organization to enable the organization to provide its expertise and resources through an educational service in the teaching of a core standard.

(b) "Program" includes:

(i) the Provisional program;

(ii) the POPS program;

(iii) the iSEE program;

~~[(iv) the Science Enhancement program];~~

~~[(iv) the Integrated Student and New Facility Learning program]; and~~

(v) ~~the~~ Subsidy program.

(16) "Science organization" means a professional science organization that provides a science-related educational service in the state.

R277-444-3. Program Application.

(1) If the state appropriates money for a program, an organization may apply to receive money from a program:

(a) on an application form provided by the Superintendent; and

(b) during the fiscal year immediately prior to the fiscal year in which the organization is to receive the money.

(2) The application shall include:

(a) documentation that the organization is:

(i) a non-profit corporation that has existed at least three consecutive years prior to the date of the application;

(ii) an arts organization or a science organization that has attained professional excellence in the discipline; and

(iii) fiscally responsible;

(b) a description of the matching funds required by Subsection R277-444-4(3); and

(c) an educational service plan, which describes:

NOTICES OF PROPOSED RULES

(i) the educational service that the organization will use the program money to provide; and

(ii) a plan to creatively and effectively provide the educational service.

(3)(a) The Superintendent shall evaluate an application with community representatives and make a recommendation on the application to the Board.

(b) The Board shall approve or deny an application based on:

(i) whether the organization meets the requirements of this rule; and

(ii) how well the organization's educational service plan meets the purpose of this rule.

R277-444-4. Grant General Provisions and Disbursement.

(1)(a) The Superintendent shall make a recommendation to the Board regarding the grant amount for an organization based on:

(i) the annual appropriation for a program;

(ii) the grant amount an organization received in a previous fiscal year, if any;

(iii) an organization's year-end report, if any; and

(iv) how well the organization's educational service plan meets the purpose of this rule relative to the other organizations participating in the program.

(b) If the state reduces the amount of money appropriated for a program from the previous fiscal year, the Board may use its discretion to allocate the money among the organizations participating in the program.

(2)(a) The Superintendent shall notify an organization of the grant amount within 30 days of the Board meeting in which it is approved, but no earlier than July 1.

(b)(i) The Superintendent shall disburse the money to an organization after an organization submits a request for reimbursement.

(ii) An organization shall submit a reimbursement request for education service plan implementation expenses:

(A) by the annual deadline specified by the Superintendent; and

(B) in a form prescribed by the Superintendent.

(3) An organization that receives money from a program shall have equal matching money from another source to support its delivery of an educational service.

(4)(a) Except as provided by Subsection (4)(b), an organization may not charge the school, teacher, or student a fee for the educational service for which the organization receives program money.

(b) An organization that receives money from the Subsidy program may charge a fee for an educational service.

(5)(a) An organization may designate a city as the organization's fiscal agent if:

(i) the city's governing body oversees and monitors the organization and fiscal agent's compliance with program requirements;

(ii) the city complies with board rules;

(iii) the city and the organization use program money for required purposes described in this rule; and

(iv) the city and the organization have an agreement or contract in place regarding the designation of the city as the organization's fiscal agent.

(b) A city fiscal agent may not use program money:

(i) for the city's general administrative purposes; or

(ii) to fund administrative costs to act as the organization's fiscal agent.

(6) A scientist, artist, or entity hired or sponsored by an organization to provide an educational service shall comply with the procedures and requirements of this rule.

R277-444-5. Year-end Report - Evaluation -- Accountability -- Variations.

(1)(a) An organization that receives money from a program shall submit a year-end report to the Superintendent by the required annual deadline.

(b) The year-end report shall include:

(i) documentation of the organization's non-profit status;

(ii) a budget expenditure report and income source report using a form provided by the Superintendent, including a report and accounting of matching funds and a fee charged, if any, for an educational service;

(iii) a record of the dates and places of all educational services rendered, the number of hours of educational service per LEA, school, and classroom, as applicable, with the number of students and teachers served, including:

(A) documentation of the schools that have been offered an opportunity to receive an educational service over a three year period, to the extent possible and consistent with the organization's plan;

(B) documentation of collaboration with the Superintendent and the community in planning the educational service, including the content, a preparatory activity, and a follow-up activity that are relevant to a core standard;

(C) a brief description of the educational service provided through the program, and if requested, copies of any material developed; and

(D) a description of how the educational service contributed to a student developing and using the knowledge, skills, and appreciation defined in an arts or science core standard;

(iv) a summary of the organization's evaluation of:

(A) cost-effectiveness;

(B) procedural efficiency;

(C) collaborative practices;

(D) educational soundness; and

(E) professional excellence; and

(v) a description of the resultant goal or plan for continued evaluation and improvement.

(2) The Superintendent may visit an organization to evaluate the effectiveness and preparation of the organization:

(a) before the Board approves an application;

(b) before disbursing money; and

(c) during an educational service.

(3)(a) In addition to the year-end report required by Subsection (1), the Superintendent may require an evaluation or an audit procedure from an organization demonstrating use of money consistent with state law and this rule.

(b) If the Board finds that an organization did not use money received from a program consistent with state law and this rule, the Board may:

(i) reduce or eliminate the grant to the organization in the current fiscal year;

(ii) deny an organization's participation in a program in a future fiscal year; or

(iii) impose any other consequence the Board deems necessary to ensure the proper use of public funds.

(4)(a) An organization may not deviate from the approved educational service plan for which the organization receives money unless:

(i) the organization submits a written request for variation to the Superintendent;

(ii) the organization receives approval from the Superintendent for the variation; and

(iii) the variation is consistent with state law and this rule.

(b) An organization shall describe the nature and justification for a variation approved under Subsection (4)(a) in a year-end report.

(5) The Superintendent shall ensure that participating LEAs receive educational services in a balanced and comprehensive manner over a three year period.

R277-444-6. Provisional Program Requirements.

(1) Through the Provisional program, and pending legislative funding, the Board may grant an organization money to enable the organization to:

- (a) further develop an educational service that is sound;
- (b) increase the number of students or teachers who receive an educational service; or
- (c) expand the geographical location in which the educational service is delivered.

(2) The Board may grant money from the Provisional program to an organization for one year.

(3) An organization may apply for a grant each year for up to five years if the organization demonstrates an increase in the educational service between the year-end report and the proposed educational service plan described in the application.

R277-444-7. POPS and iSEE Program Requirements.

(1)(a) Through the POPS program, the Board may grant money to an arts organization to provide an educational service state-wide.

(b) Through the iSEE program, the Board may grant money to a science organization to provide an educational service state-wide.

(c) A grant from the POPS program or iSEE program is on-going, subject to the review required by Subsection (4).

(2)(a) An arts organization may apply for the POPS program and a science organization may apply for the iSEE program if the organization:

(i) has successfully participated in the Provisional program for three consecutive years in which the state appropriates money to the Provisional program;

(ii) has educational staff and the capacity to deliver an educational service state-wide; and

(iii) demonstrates during participation in the Provisional program:

(A) the quality and improvement of an educational service; and

(B) fiscal responsibility.

(b) An organization shall submit a letter of intent to transition from the Provisional program to the POPS program or the iSEE program to the Superintendent by October 1 of the calendar year immediately before the calendar year in which the organization submits the application for the POPS program or the iSEE program.

(3) An organization that receives money from the POPS program or iSEE program may not receive money from the Provisional program or the Subsidy program in the same fiscal year.

(4)(a) At least once every four years, the Superintendent shall review and evaluate all organizations' participation in the POPS program and the iSEE program, which may include:

(i) evaluation of an educational service plan, year-end report, reimbursement form, or audit; and

(ii) attendance at an educational service or a site visit.

(b) The Superintendent shall:

(i) report to the Board the results of the review and evaluation; and

(ii) make a recommendation to the Board regarding an organization's continued participation in the program based on how well the organization fulfills the purpose of this rule.

R277-444-8. Subsidy Program Requirements.

(1)(a) Through the Subsidy program, the Board may grant money to an organization that provides a valuable education service but does not qualify for participation in another program.

(b) A grant from the Subsidy program is on-going, subject to the review required by Subsection (5).

(2)(a) An organization may apply to receive money through the Subsidy program if the organization has successfully participated in the Provisional program for three consecutive years in which the state appropriated money to the Provisional program.

(b) An organization shall submit a letter of intent to transition from the Provisional program to the Subsidy program to the Superintendent:

(A) within the calendar year immediately before the calendar year in which the organization will submit an application for the Subsidy program; and

(B) by the deadline set by the Superintendent.

(3) The Board may approve an application to participate in the Subsidy program if the Board finds the organization:

(a) has successfully provided a valuable educational service during its participation in the Provisional program; and

(b) does not meet the requirements to participate in the POPS program or iSEE program because the organization:

(i) delivers an educational service regionally instead of state-wide; or

(ii) charges a fee for an educational service.

(4) An organization that receives money from the Subsidy program may not receive money from the another program in the same fiscal year.

(5)(a) At least once every four years, the Superintendent shall review and evaluate all organizations' participation in the Subsidy program, which may include:

(i) evaluation of an educational service plan, year-end report, reimbursement form, or audit; and

(ii) attendance at an educational service or a site visit.

(b) The Superintendent shall:

(i) report to the Board the results of the review and evaluation; and

(ii) make a recommendation to the Board regarding an organization's continued participation in the Subsidy program based on how well the organization fulfills the purpose of this rule.

KEY: arts, science, core standards

Date of Enactment or Last Substantive Amendment: ~~December 10, 2018~~**2020**

Notice of Continuation: August 13, 2015

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-3-501

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-460	Filing No. 52852

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R277-460. Distribution of Substance Abuse Prevention Account
3. Purpose of the new rule or reason for the change:
Rule R277-460 is amended due to H.B. 58, passed in the 2020 General Session, to update defined terms and other language included in this 2020 legislation.
4. Summary of the new rule or change:
The rule amendments include renaming the Underage Drinking Prevention Program to the Underage Drinking and Substance Abuse Prevention Program and adds electronic cigarette products to a list of substances included in school based substance abuse prevention programs.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have independent fiscal impacts on state government revenues or expenditures. H.B. 58, from the 2020 General Session, defines and regulates the use of electronic cigarette products in schools. The amendments in this rule change are due to requirements in this legislation.
B) Local governments:
This rule change is not expected to have independent fiscal impacts on local government revenues or expenditures. H.B. 58, from the 2020 General Session, defines and regulates the use of electronic cigarette products in schools. The amendments in this rule change are due to requirements in this legislation.

C) Small businesses ("small business" means a business employing 1-49 persons):

This rule change is not expected to have independent fiscal impacts on small business revenues or expenditures. H.B. 58, from the 2020 General Session, defines and regulates the use of electronic cigarette products in schools. The amendments in this rule change are due to requirements in this legislation.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industrial Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have independent fiscal impact on revenues expenditures for persons other than small businesses, businesses, or local government entities. H.B. 58 (2020) defines and regulates the use of electronic cigarette products in schools. The amendments in this rule change are due to requirements in this legislation.

F) Compliance costs for affected persons:

There are no independent compliance costs for affected persons. H.B. 58 (2020) defines and regulates the use of electronic cigarette products in schools. The amendments in this rule change are due to requirements in this legislation.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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

H) Department head approval of regulatory impact analysis:

The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

B) Name and title of department head commenting on the fiscal impacts:

Sydnee Dickson, State Superintendent

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state

and federal laws. State code or constitution citations (required):

Article X, Section 3	Section 51-9-405	Section 53G-10-405
Subsection 53E-3-401(4)		

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/31/2020

10. This rule change MAY become effective on: 08/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	06/15/2020
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R277. Education, Administration.

R277-460. Distribution of Substance Abuse Prevention Account.

R277-460-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Section 53G-10-405, which directs the Board to adopt rules providing for instruction on the harmful effects of alcohol, tobacco, electronic cigarette products, and controlled substances;
 - (c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
 - (d) Section 51-9-405, which provides for funds from the Substance Abuse Prevention Account to be allocated to the Board for:
 - (i) substance abuse prevention and education;
 - (ii) substance abuse prevention training for teachers and administrators; and
 - (iii) LEA programs to supplement, not supplant, existing local prevention efforts in cooperation with local substance abuse authorities.

NOTICES OF PROPOSED RULES

(2) The purpose of this rule is to provide for the distribution of the Board's share of the money from the Substance Abuse Prevention Account.

R277-460-2. Definitions.

(1) "Educational materials" means visual and auditory media, curricula, textbooks, and other disposable or non-disposable items that enhance student understanding of the subject matter.

(2) "Electronic cigarette product" has the same meaning as that term is defined in Section 59-14-802.

~~(2)~~(3) "Local substance abuse authority" means the person or group designated by the Legislature as the county authority to receive public funds for substance abuse prevention and treatment.

~~(3)~~(4) "Substance abuse prevention education activities and intervention" means proactive educational activities designed to eliminate any illegal use of alcohol, tobacco, electronic cigarette products, and controlled substances.

R277-460-3. Fund Allocations.

(1) Before making the distributions described in Subsections (2) and (3), the Superintendent shall retain sufficient substance abuse prevention funds to pay for the salary, benefits, and indirect costs of a program administrator at a salary level to be determined by the Superintendent and support staff costs for the program administrator.

(2) After the allocation of substance abuse prevention funds is retained as described in Subsection (1), the Superintendent may use up to 45% to:

(a) purchase educational materials to support and supplement existing substance abuse prevention efforts;

(b) encourage and support statewide substance abuse prevention training for school district and charter school teachers and administrators; and

(c) promote substance abuse prevention in the classroom.

(3) At least 55% of the substance abuse prevention funds remaining after the allocation described in Subsection (1) shall be distributed to LEAs for use by the LEAs or individual schools within the LEA based on application.

R277-460-4. Applications.

(1) The Superintendent shall develop an application for LEAs that are interested in applying for substance abuse prevention funds available as described in this R277-460.

(2) An LEA shall submit the LEA's application to the specialist designated by the Superintendent.

(3)(a) Substance abuse prevention funds shall be distributed to LEAs based on funds available from the Substance Abuse Prevention Account.

(b) The Superintendent shall describe the available funding amounts in the Board application described in Subsection (1).

(4) An LEA's application for substance abuse prevention funds shall include the following:

(a) the applicant's intention to collaborate with the local substance abuse authority and community groups, including shared plans and strategies for substance abuse prevention education, activities, and intervention;

(b) the applicant's plan for professional development on substance abuse;

(c) the use of funds to implement applicant's plan;

(d) teacher reports of classroom implementation and plans for classroom monitoring visits;

(e) applicant's enhancement of substance abuse curriculum with additional substance abuse activities and strategies; and

(f) applicant's implementation of substance abuse curriculum with school-based behavioral/health or coordinated school health initiatives.

R277-460-5. Limitations on Funds.

(1) The Superintendent and LEAs shall use substance abuse prevention funds exclusively for purposes set forth in Section 51-9-405.

(2) Transfer of funds between line items or the extension of project completion dates may be made only with prior written approval of the Superintendent.

(3) An LEA may not use funds received under this R277-460 to supplant:

(a) funds currently available to the LEA; or

(b) funds available from other state or local sources.

R277-460-6. Evaluation and Reports.

(1) An applicant that receives substance abuse prevention funds shall provide the Superintendent with a year-end report on or before July 1 of the fiscal year in which the award was made.

(2) The year-end report described in Subsection (1) shall include:

(a) an expenditure report;

(b) a narrative description of activities funded; and

(c) an action research or data project report.

(3) The Superintendent may require additional evaluation or audit procedures from an award recipient to demonstrate the use of funds consistent with the law and Board rules.

(4) The Superintendent shall annually report the following information to the Board's Finance Committee:

(a) the number of LEAs receiving substance abuse prevention funds;

(b) a summary of the LEAs' use of program funds; and

(c) a description of how the Superintendent is using the funds described in Subsections R277-460-3(1) and (2).

KEY: public schools, substance abuse prevention

Date of Enactment or Last Substantive Amendment: ~~August 7, 2017~~**2020**

Notice of Continuation: June 6, 2017

Authorizing, and Implemented, or Interpreted Law: Art X Sec 3; 53G-10-405; 51-9-405

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Utah Admin. Code Ref (R no.):	R277-483	Filing No. 52853

Agency Information

1. Department:	Education
Agency:	Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state:	Salt Lake City, UT 84114
Mailing address:	PO Box 144200

City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R277-483. LEA Reporting and Accounting Requirements
3. Purpose of the new rule or reason for the change:
Rule R277-483 is being repealed because the rule is no longer needed.
4. Summary of the new rule or change:
The Utah State Board of Education (Board) Rule R277-483 is being repealed in its entirety because the rule requirements will be incorporated into Board Rule R277-113. (EDITOR'S NOTE: The proposed amendment to Rule R277-113 is under Filing No. 52839 in this issue, July 1, 2020, of the Bulletin.)

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This repeal is not expected to have material fiscal impact on state government revenues or expenditures. Requirements in this rule are incorporated in Rule R277-113.
B) Local governments:
This repeal is not expected to have material fiscal impact on local governments' revenues or expenditures. Requirements in this rule are incorporated in Rule R277-113.
C) Small businesses ("small business" means a business employing 1-49 persons):
This repeal is not expected to have material fiscal impact on small businesses' revenues or expenditures. Requirements in this rule are incorporated in Rule R277-113.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industrial Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary

and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This repeal is not expected to have material fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. Requirements in this rule are incorporated in Rule R277-113.

F) Compliance costs for affected persons:

There are no compliance costs for affected persons. Requirements in this rule are incorporated in Rule R277-113.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

NOTICES OF PROPOSED RULES

Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0
H) Department head approval of regulatory impact analysis:			
The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.			
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:			
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.			
B) Name and title of department head commenting on the fiscal impacts:			
Sydnee Dickson, State Superintendent			

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Article X, Section 3	Section 53A-1-401	Section 53E-5-202
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	07/31/2020
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10. This rule change MAY become effective on:	08/07/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	06/15/2020
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R277. Education, Administration.

~~**R277 483. LEA Reporting and Accounting Requirements.**~~

~~**R277 483 1. Authority and Purpose.**~~

- ~~(1) This rule is authorized by:~~
- ~~(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;~~
 - ~~(b) Section 53A-1-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and~~
 - ~~(c) Section 53E-5-202, which directs the Board to adopt rules to implement a statewide accountability system; and~~
 - ~~(d) the federal ESSA, which requires states to revise and redesign school accountability systems.~~
- ~~(2) The purpose of this rule is to establish reporting and accounting requirements for LEAs to enable the Board to comply with ESSA.~~

~~**R277 483 2. Definitions.**~~

- ~~(1) "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.~~
- ~~(2) "N size" means the minimum size necessary to disclose or display data to ensure maximum student group visibility while protecting student privacy.~~

~~**R277 483 3. Reporting of School Level Expenditures.**~~

- ~~(1) In accordance with ESSA, the Superintendent shall make public required expenditure reporting elements, including school level expenditures.~~
- ~~(a) The Superintendent shall calculate school level expenditures for all schools, by LEA.~~
 - ~~(b) The Superintendent shall calculate expenditures for the prior fiscal year.~~
- ~~(2) The Superintendent's school level report for each school shall include:~~
- ~~(a) average daily membership for the fiscal year covered by the report;~~
 - ~~(b) an indicator if the school is:

 - ~~(i) a Title I School; or~~
 - ~~(ii) a Necessarily Existent Small School;~~~~
 - ~~(c) grade levels served by each school;~~
 - ~~(d) student demographics;~~
 - ~~(e) expenditures recorded at the school level and central expenditures allocated to each school by;~~

- ~~_____ (i) federal program expenditures; and~~
- ~~_____ (ii) state and local combined expenditures;~~
- ~~_____ (f) calculated per pupil expenditures; and~~
- ~~_____ (g) average teacher salary;~~
- ~~_____ (3) The Superintendent shall exclude the following expenditures from per pupil school expenditure calculations and present them in total for each LEA:~~
 - ~~_____ (a) capital acquisitions;~~
 - ~~_____ (b) debt service; and~~
 - ~~_____ (c) internal service funds.~~
- ~~_____ (4) The Superintendent may not report expenditure data for a school with an n size of less than 10.~~

R277-483-4. LEA Accounting Requirements.

- ~~_____ (1) Each LEA shall:~~
 - ~~_____ (a) record expenditures in compliance with the Board approved chart of accounts;~~
 - ~~_____ (b) record expenditures using school location codes that can be mapped to official school location codes used in Board system of record;~~
 - ~~_____ (c) record expenditures using approved district and school codes in the Board system of record;~~
 - ~~_____ (d) submit expenditures using location codes in the UPEFS system; and~~
 - ~~_____ (e) perform program accounting.~~
- ~~_____ (2) Each LEA shall record and report the following expenditures for each school annually:~~
 - ~~_____ (a) salaries;~~
 - ~~_____ (b) benefits;~~
 - ~~_____ (c) supplies;~~
 - ~~_____ (d) contracted services; and~~
 - ~~_____ (e) equipment.~~
- ~~_____ (3) If an LEA pays for contracted services that occur at the school level, the LEA shall record the payments to the contractors in the appropriate function and object codes established under Subsection (2) at the school level.~~
 - ~~_____ (4)(a) An LEA shall record centralized administrative costs to the administrative location code.~~
 - ~~_____ (b) The Superintendent shall allocate such costs to each school based on school enrollment.~~
 - ~~_____ (5)(a) An LEA shall report transportation costs by function at the LEA level.~~
 - ~~_____ (b) The Superintendent shall allocate transportation costs to individual school based on enrollment of each school.~~
 - ~~_____ (6)(a) An LEA shall report child nutrition costs by function at the LEA level.~~
 - ~~_____ (b) The Superintendent shall allocate child nutrition costs to individual school based on enrollment of each school.~~
 - ~~_____ (7) The Superintendent shall present one expenditure report for a school receiving more than one report card under Subsection R277-497-4(8).~~
 - ~~_____ (8) If an LEA reports expenditures in programs, the LEA shall report the expenditures to one or more schools.~~

KEY: reporting, ESSA, accounting
Date of Enactment or Last Substantive Amendment: April 8, 2019
Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401]

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-497	Filing No. 52854

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
R277-497. School Accountability System
3. Purpose of the new rule or reason for the change:
The rule is being changed to make technical corrections by updating dates and repealing outdated language specific to school years that have passed.
4. Summary of the new rule or change:
The rule is being amended to update the school year references in Subsection R277-497-2(5) and remove unnessecary language in Subsection R277-467-4(3)(d).

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have material fiscal impact on state government revenues or expenditures. The amendments are technical and clarifying in nature.
B) Local governments:
This rule change is not expected to have material fiscal impact on local governments' revenues or expenditures. The amendments are technical and clarifying in nature.

C) Small businesses ("small business" means a business employing 1-49 persons):

This rule change is not expected to have material fiscal impact on small businesses' revenues or expenditures. The amendments are technical and clarifying in nature.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have material fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The amendments are technical and clarifying in nature.

F) Compliance costs for affected persons:

There are no material compliance costs for affected persons. The amendments are technical and clarifying in nature.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0

Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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

H) Department head approval of regulatory impact analysis:

The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

B) Name and title of department head commenting on the fiscal impacts:

Sydnee Dickson, State Superintendent

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Article X, Section 3	Section 53E-5-202	Subsection 53E-3-401(4)
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	07/31/2020
--	------------

10. This rule change MAY become effective on:	08/07/2020
--	------------

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	06/15/2020
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R277. Education, Administration.

R277-497. School Accountability System.

R277-497-1. Authority and Purpose.

(1) This rule is authorized by:

- (a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;
- (b) Section 53E-5-202, which directs the Board to adopt rules to implement a statewide accountability system; and
- (c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and State law.

(2) The purpose of this rule is to set performance thresholds for the purpose of assigning overall ratings to schools, establish provisions for the methodology of calculating points, and address exclusions from the school accountability system.

R277-497-2. Assignment of Overall Rating for a School.

(1) The Superintendent shall assign an overall school rating in accordance with the indicators described in Section 53E-5-205 for elementary and middle schools and Section 53E-5-206 for high schools.

(2) The Board establishes the following performance thresholds for the Superintendent to assign overall ratings to schools.

(3) For an elementary or middle school:

- (a) an "A" rating represents an exemplary school, where the school has earned 63.25% of the total points possible;
- (b) a "B" rating represents a commendable school, where the school has earned 55% of the total points possible;
- (c) a "C" rating represents a typical school, where the school has earned 43.5% of the total points possible;

(d) a "D" rating represents a developing school, where the school has earned 35.5% of the total points possible; and

(e) an "F" rating represents a critical needs school, where the school has earned less than 35.5% of the total points possible.

(4) For a high school:

(a) an "A" rating represents an exemplary school, where the school has earned 64% of the total points possible;

(b) a "B" rating represents a commendable school, where the school has earned 57% of the total points possible;

(c) a "C" rating represents a typical school, where the school has earned 46% of the total points possible;

(d) a "D" rating represents a developing school, where the school has earned 38% of the total points possible; and

(e) an "F" rating represents a critical needs school, where the school has earned less than 38% of the total points possible.

(5) In accordance with Section 53E-5-204(3)(b), ~~for the 2017-18 school year,~~ for the 2018-19 and the 2019-20 school year, the Superintendent may not assign an overall rating to a school.

R277-497-3. Indexing of Points for Calculating Academic Growth.

(1) For the purposes of calculating academic growth, the Superintendent shall assign each student a student growth percentile (SGP) and a student growth target (SGT).

(2) The Superintendent shall assign points to a school for student growth relative to the percentage of students who meet their SGT as follows:

(a) if a student's SGP is greater than or equal to the student's SGT, and the student meets the SGT goal for a subject area, the student is awarded a weight based on the student's SGP using the following index:

- (i) if the student's SGP is greater than 65, the weight is 1.0;
- (ii) if the student's SGP is between 50 and 65, the weight is 0.75;

(iii) if the student's SGP is between 40 and 49, the weight is 0.50; and

(iv) if the student's SGP is less than 40, the weight is 0.25; or

(b) if a student's SGP is less than the student's SGT and the student does not meet the SGT goal for a subject area, the student is awarded a weight based on the student's SGP using the following index:

- (i) if the student's SGP is greater than 65, the weight is 0.75;
- (ii) if the student's SGP is between 50 and 65, the weight is 0.50;

(iii) if the student's SGP is between 40 and 49, the weight is 0.25; and

(iv) if the student's SGP is less than 40, the weight is 0.

(3) To determine the total growth points allocated to a school, the Superintendent shall:

(a) add all the weights and divide by the total number of tests to establish a percentage; and

(b) multiply the percentage by the total growth points possible.

R277-497-4. Specific Provisions on Calculation of Points.

(1)(a) In accordance with Section 53E-5-207(4)(c)(ii), the Superintendent shall award 10% of the points allocated for high school graduation based on a school's five-year graduation rate.

(b) A school may not earn more than the total number of points possible for the graduation rate indicator.

(2)(a) In accordance with Section 53E-5-210, the Superintendent shall determine that an ELL student meets adequate progress if the ELL student has an increase in proficiency level by 0.4

NOTICES OF PROPOSED RULES

on an English language proficiency assessment approved by the Board and designated in Rule R277-404.

(3)(a) For a school that chooses to include additional quality indicators on its school report card, the school may choose up to two additional self-reported indicators.

(b) The Superintendent shall approve a list of indicators that a school may use for purposes of Subsection (4)(a), and may also approve other indicators that an LEA may submit for consideration.

(c) The Superintendent shall publish the pre-approved self-reported indicators list on the Assessment and Accountability section of the USBE website.

(d) If a school elects to include the additional self-reported indicators, the school shall notify the Superintendent by established due dates ~~[which are published on the Assessment and Accountability section of the USBE website by July 1].~~

(5) When calculating postsecondary readiness points for a high school student's performance on a college readiness assessment, the Superintendent shall use the student's ACT score obtained during the statewide administration of ACT.

(6) The Superintendent shall publish the Utah Accountability Technical Manual, which includes:

- (a) additional technical details on the calculation of points;
- (b) business rules;

(c) detailed explanations on the methodologies for the calculation of achievement, student growth, equitable education opportunity, and postsecondary readiness and;

(d) other indicators to appropriately assess the educational impact of a school that serves a special student population.

(6) A copy of the Utah Accountability Technical Manual is located at:

- (a) <https://schools.utah.gov/assessment/resources>; and
- (b) the offices of the Utah State Board of Education.

R277-497-5. Exclusions From the Accountability System and Indicators for Schools Serving a Special Student Population.

(1)(a) In determining schools to exempt from the school accountability system, in accordance with Section 53E-5-203, the Superintendent shall exempt a school in which the number of students tested on a statewide assessment is less than 10.

(b) The Superintendent may not report any school indicator for which the student group size for that indicator is less than 10.

(2) The Superintendent shall publish other indicators, in addition to indicators described in Sections 53E-5-205 and 53E-5-206, to appropriately assess the educational impact of a school that serves a special student population.

KEY: school reports, school grading accountability
Date of Enactment or Last Substantive Amendment: ~~August 7, 2018~~ **2020**
Notice of Continuation: August 13, 2015
Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53E-5-202; 53E-3-401(4)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Utah Admin. Code Ref (R no.):	R277-498	Filing No. 52855

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R277-498. Grant for Math Teaching Training
3. Purpose of the new rule or reason for the change:
The Utah State Board of Education has reviewed this rule and determined that the rule is no longer needed and recommends it be repealed.
4. Summary of the new rule or change:
The program this rule governs no longer receives funding and was replaced by the STEM (Science, Technology, Engineering, and Mathematics) Endorsement Initiative Program.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have material fiscal impact on state government revenues or expenditures. The program this rule governs no longer receives funding and was replaced by the STEM Endorsement Initiative Program.
B) Local governments:
This rule change is not expected to have material fiscal impact on local governments' revenues or expenditures. The program this rule governs no longer receives funding and was replaced by the STEM Endorsement Initiative Program.
C) Small businesses ("small business" means a business employing 1-49 persons):

This rule change is not expected to have material fiscal impact on small businesses' revenues or expenditures. The program this rule governs no longer receives funding and was replaced by the STEM Endorsement Initiative Program.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industrial Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have material fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The program this rule governs no longer receives funding and was replaced by the STEM Endorsement Initiative Program.

F) Compliance costs for affected persons:

There are no compliance costs for affected persons. The program this rule governs no longer receives funding and was replaced by the STEM Endorsement Initiative Program.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0

Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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

H) Department head approval of regulatory impact analysis:

The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

B) Name and title of department head commenting on the fiscal impacts:

Sydnee Dickson, State Superintendent

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Article X, Section 3	Subsection 53E-3-401(4)	Subsection 53F-5-205(2)
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	07/31/2020
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10. This rule change MAY become effective on:	08/07/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	06/15/2020
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R277. Education, Administration.

~~**R277-498. Grant for Math Teaching Training.**~~

~~**R277-498-1. Authority and Purpose.**~~

- ~~(1) This rule is authorized by:~~
 - ~~(a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;~~
 - ~~(b) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities; and~~
 - ~~(c) Subsection 53F-5-205(2), which directs the Board to make rules to provide criteria to award a grant related to mathematics education.~~
- ~~(2) The purpose of this rule is to establish criteria to award a grant to:~~
 - ~~(a) support and encourage prospective educators to earn mathematics endorsements; and~~
 - ~~(b) assist an experienced mathematics teacher in becoming a teacher leader.~~

~~**R277-498-2. Definitions.**~~

- ~~(1) "Comprehensive Administration of Credentials for Teachers in Utah Schools" or "CACTUS" means the electronic file maintained on all licensed Utah educators that includes:~~
 - ~~(a) personal directory information;~~
 - ~~(b) educational background;~~
 - ~~(c) endorsements;~~
 - ~~(d) employment history; and~~
 - ~~(e) a record of disciplinary action taken against the educator.~~
- ~~(2) "Endorsements in mathematics" means one or more endorsements in the mathematics teaching field that:~~

- ~~(a) qualify an educator or prospective educator to teach a specific or specific level of mathematics course; and~~
- ~~(b) is indicated by a notation on the educator's CACTUS record.~~

- ~~(3) "Grantee" or "prospective grantee" means:~~
 - ~~(a) an institution of higher education; or~~
 - ~~(b) a nonprofit educational organization.~~
- ~~(4) "Matching funds" means funds provided by the grant recipient in order to receive state funds under Section 53F-5-205.~~

~~**R277-498-3. Board Procedures for Distributing Funds.**~~

- ~~(1) The Superintendent shall select a grantee that meets the criteria of Section 53F-5-205 and the criteria of this rule from requests submitted by a prospective grantee.~~
- ~~(2) The Superintendent shall notify a selected grantee of its eligibility to receive funds under this program following:~~
 - ~~(a) review of the request; and~~
 - ~~(b) the assurance of matching funds.~~
- ~~(3) The Superintendent may identify one eligible and qualified grantee and establish a funding schedule to distribute funds or allow a prospective grantee to submit an application until March 30.~~
- ~~(4) The Superintendent, under the direction of the Board, shall distribute the appropriation provided for in Section 53F-5-205 by June 30.~~

~~**R277-498-4. Criteria for Awarding Grants.**~~

- ~~(1) The Superintendent shall consider the amount or percent of matching funds that a prospective grantee offers.~~
- ~~(2) The Superintendent shall determine that the prospective grantee requesting funds under Section 53F-5-205 shall use the funds consistent with Section 53F-5-205.~~

~~**R277-498-5. Accountability and Documentation.**~~

- ~~(1) The Superintendent shall maintain records of the distribution of funds to a grantee that requests funds provided under Section 53F-5-205 and this rule.~~
- ~~(2) The recipient of funds under Section 53F-5-205 shall maintain documentation of the matching funds offered by the grantee that established the grantee's eligibility.~~
- ~~(3) Both the Superintendent and the eligible grantee shall maintain documentation of:~~
 - ~~(a) the number of prospective educators and the relevant training received from funding provided by Section 53F-5-205; or~~
 - ~~(b) the number of experienced mathematics teachers and the relevant training received from funding provided by Section 53F-5-205.~~

~~**KEY: grants, educators, math teaching training**~~

~~**Date of Enactment or Last Substantive Amendment: October 8, 2015**~~

~~**Notice of Continuation: August 13, 2015**~~

~~**Authorizing, and Implemented or Interpreted Law: Art X, Sec 3; 53E-3-401(3); 53F-5-205(2)**~~

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal		
Utah Admin. Code Ref (R no.):	R277-500	Filing No. 52856

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R277-500. Educator Licensing Renewal, Timelines, and Required Fingerprint Background Checks
3. Purpose of the new rule or reason for the change:
Rule R277-500, which sunsets in July 2020, will no longer be necessary and therefore the Utah State Board of Education (Board) is repealing the rule.
4. Summary of the new rule or change:
As part of the licensing updates, the Board approved a new renewal rule, Rule R277-302 and the language from Rule R277-500 will be incorporated into the new rule. This rule is repealed in its entirety.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This repeal is not expected to have material fiscal impact on state government revenues or expenditures. The Board approved Rule R277-302 and the language from Rule R277-500 is incorporated into the new rule. Rule R277-500 is no longer necessary and therefore, the rule is being repealed.
B) Local governments:
This repeal is not expected to have material fiscal impact on local governments' revenues or expenditures. The Board approved Rule R277-302 and the language from Rule R277-500 is incorporated into the new rule. Rule R277-500 is no longer necessary and therefore, the rule is being repealed.
C) Small businesses ("small business" means a business employing 1-49 persons):

This repeal is not expected to have material fiscal impact on small businesses' revenues or expenditures. The Board approved Rule R277-302 and the language from Rule R277-500 is incorporated into the new rule. Rule R277-500 is no longer necessary and therefore, the rule is being repealed.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industrial Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This repeal is not expected to have material fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The Board approved Rule R277-302 and the language from Rule R277-500 is incorporated into the new rule. Rule R277-500 is no longer necessary and therefore, the rule is being repealed.

F) Compliance costs for affected persons:

There were no compliance costs for affected persons. The Board approved Rule R277-302 and the language from Rule R277-500 is incorporated into the new rule. Rule R277-500 is no longer necessary and therefore, the rule is being repealed.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

NOTICES OF PROPOSED RULES

Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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

H) Department head approval of regulatory impact analysis:

The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This repeal is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable large businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

B) Name and title of department head commenting on the fiscal impacts:

Sydnee Dickson, State Superintendent

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Article X, Section 3	Subsection 53E-3-401(4)	Section 53E-6-201
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/31/2020

10. This rule change MAY become effective on: 08/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	06/15/2020
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R277. Education, Administration.

~~**R277-500. Educator Licensing Renewal, Timelines, and Required Fingerprint Background Checks.**~~

~~**R277-500-1. Authority and Purpose.**~~

~~A. This rule is authorized by Utah Constitution Article X, Section 3 which vests general control and supervision of public education in the Board, Section 53E-6-201 which requires the Board to make rules requiring participation in professional learning activities in order for educators to retain Utah licensure, and Subsection 53E-3-401(4) which permits the Board to adopt rules in accordance with its responsibilities.~~

~~B. The purpose of this rule is to provide definitions and requirements for an educator to renew a Utah educator license. This rule requires verification of employment, development of a professional learning plan, and documentation of activities consistent with Title 53E, Chapter 6, Education Professional Licensure.~~

~~**R277-500-2. Definitions.**~~

~~A. "Acceptable alternative professional learning activity" means an activity that may not fall within a specific category under R277-500-5 but is consistent with this rule.~~

~~B. "Accredited" means a teacher preparation program accredited by the National Council for Accreditation of Teacher Education (NCATE), the Teacher Education Accreditation Council (TEAC), or the Council for the Accreditation of Educator Preparation (CAEP).~~

~~C. "Accredited school," for purposes of this rule, means a public or private school that has met standards considered to be essential for the operation of a quality school program and has~~

received formal approval by the Northwest Accreditation Commission.

~~D. "Active educator," for purposes of this rule, means an individual holding a valid license issued by the Board who is employed by a Utah public LEA, accredited private school, or USOE, or who was employed by a Utah public LEA or accredited private school in a role covered by the license for at least three years in the individual's renewal period.~~

~~E. "Active educator license" means a license that is currently valid for employment in a position requiring an educator license.~~

~~F. "Board" means the Utah State Board of Education.~~

~~G. "College/university course" means a course taken through an institution approved under Section 53E-6-303.~~

~~H. "Course work successfully completed" for purposes of this rule means the student earns a grade C or better in approved university or university level course work or USOE professional learning credit.~~

~~I. "Documentation of professional learning activities" means:~~

~~(1) an original student transcript of university/college courses;~~

~~(2) an LEA or USOE sponsored electronic record of professional learning activities;~~

~~(3) a summary, explanation, or copy of the product of a professional learning activity signed by the educator's supervisor or a licensed administrator;~~

~~(4) a certificate of completion for an approved professional learning conference, workshop, institute, symposium, educational travel experience or staff development; or~~

~~(5) an agenda or conference program demonstrating sessions and duration of professional learning activities.~~

~~J. "Educational research" means conducting research on education issues or investigating education innovations.~~

~~K. "Inactive educator" means an individual:~~

~~(1) who holds a valid license issued by the Board;~~

~~(2) who is not currently employed by a Utah public LEA or accredited private school; and~~

~~(3) who was employed by a Utah public LEA or accredited private school in a role covered by the license for less than three years in the individual's renewal period.~~

~~L. "Inactive educator license" means a license issued by the Board, other than a suspended or revoked license, that is currently not valid due to the holder's failure to complete requirements for license renewal.~~

~~M. "LEA" or "local education agency" means a school district or a charter school.~~

~~N. "Level 1 license" means a Utah professional educator license issued:~~

~~(1) to an applicant upon completion of an approved preparation program or an alternative preparation program; or~~

~~(2) to an applicant that holds an educator license issued by another state or country that has also met all ancillary requirements established by law or rule.~~

~~O. "Level 2 license" means a Utah professional educator license issued to an applicant after the applicant meets the following:~~

~~(1) completion of all requirements for a Level 1 license;~~

~~(2) satisfaction of requirements under R277-522 for a teacher whose employment as a Level 1 licensed educator began after January 1, 2003 in a Utah public LEA or accredited private school;~~

~~(3) completion of:~~

~~(a) at least three years of successful education experience in a Utah public LEA or accredited private school; or~~

~~(b)(i) one year of successful education experience in a Utah public LEA or accredited private school; and~~

~~(ii) at least three years of successful education experience in a public LEA or accredited private school outside of Utah; and~~

~~(4) completion of any additional requirements established by law or rule.~~

~~P. "Level 3 license" means a Utah professional educator license issued to an educator who:~~

~~(1) holds a current Utah Level 2 license; and~~

~~(2)(a) received National Board Certification;~~

~~(b) received a doctorate in education or in a field related to a content area in a unit of:~~

~~(i) the public education system; or~~

~~(ii) an accredited private school; or~~

~~(c) holds a Speech Language Pathology area of concentration and has obtained American Speech Language Hearing Association (ASHA) certification.~~

~~Q. "License" means an authorization which permits the license holder to serve in a professional capacity in a public LEA or accredited private school.~~

~~R. "Licensed administrator" means:~~

~~(1) an individual holding an active educator license that is valid for employment in a public school administrative position; or~~

~~(2) an individual currently employed by a Utah charter school in an administrative position.~~

~~S. "License renewal points" means the points accumulated by a Utah license holder through activities approved under this rule for the purpose of satisfying requirements of Section 53E-6-201.~~

~~T. "National Board Certification" means the successful completion of the National Board for Professional Teaching Standards (NBTPS) process, a three year process, that may include:~~

~~(1) national content area assessment;~~

~~(2) an extensive portfolio; and~~

~~(3) assessment of video-taped classroom teaching experience.~~

~~U. "Professional growth plan" means a plan created and reviewed annually by an active educator and the educator's direct supervisor that details the professional goals of the educator based on the Utah Effective Teaching and Educational Leadership Standards consistent with R277-520 and related to the educator's self-assessment and formal evaluation required under Section 53G-11-504.~~

~~V. "Professional learning" means engaging in activities that improve or enhance an educator's practice.~~

~~W. "Professional learning plan" means a document prepared by a Utah educator consistent with this rule.~~

~~X. "Superintendent" means the State Superintendent of Public Instruction or the Superintendent's designee.~~

~~Y. "University level course" means a course:~~

~~(1) that has the same academic rigor and requirements of a university or college course;~~

~~(2) taught by appropriately trained individuals; and~~

~~(3) designated as a university level course by the Superintendent.~~

~~Z. "UPPAC" means the Utah Professional Practices Advisory Commission under Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission.~~

~~AA. "USOE" means the Utah State Office of Education.~~

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~~BB. "USOE professional learning credit" means a course, approved by the Superintendent under R277-519-3, that educators may participate in to:~~

- ~~(1) renew a license;~~
- ~~(2) teach in another subject area; or~~
- ~~(3) teach at another grade level.~~

~~CC. "Verification of employment" means official documentation of employment as an educator listing the educator's assignment and years of service, signed by the supervising administrator.~~

R277-500-3. Educator License Renewal Requirements.

~~A. Professional Learning Plan for Active Educators~~

~~(1) An active educator, in collaboration with the active educator's supervisor, shall develop and maintain a professional learning plan as a subset of the active educator's professional growth plan.~~

~~(2) The professional learning plan shall outline the professional learning activities in which the educator will participate during the educator's current license renewal cycle;~~

~~(3) The professional learning plan shall be developed by taking into account:~~

- ~~(a) the educator's professional goals;~~
- ~~(b) curriculum relevant to the educator's current or anticipated assignment;~~
- ~~(c) goals and priorities of the LEA and school;~~
- ~~(d) available student data relevant to the educator's current or anticipated assignment;~~
- ~~(e) feedback from the educator's yearly evaluation required under Section 53G-11-504;~~
- ~~(f) the requirements under R277-522 if the educator is a Level 1 licensed educator.~~

~~(4) The professional learning plan for active educators shall include two hours of professional learning on youth suicide prevention consistent with Section 53G-9-704.~~

~~(5) The professional learning plan shall be reviewed and signed annually by the educator and supervisor and may be adjusted as appropriate.~~

~~(6) The educator is responsible for creation of the professional learning plan in collaboration with the designated supervisor.~~

~~(7) The educator is responsible for maintaining documentation associated with the plan and the annual review of the plan.~~

~~(8) The LEA may create tools or policies or both to assist educators in meeting this responsibility.~~

~~B. Professional Learning Plan for Inactive Educators~~

~~(1) All inactive educators intending to renew an educator license shall, in collaboration with a licensed administrator, develop and maintain a professional learning plan.~~

~~(2) The professional learning plan shall outline the professional learning activities in which the educator will participate during the educator's current license renewal cycle.~~

~~(3) The plan shall take into account:~~

- ~~(a) the educator's professional goals;~~
- ~~(b) current license areas of concentration and endorsements;~~
- ~~(c) current trends relevant to the educator's current license areas of concentration and endorsements;~~
- ~~(d) the Utah Core Standards relevant to the educator's current license areas of concentration and endorsements;~~

~~(4) The professional learning plan shall be reviewed and signed by the educator and a licensed administrator at the beginning of the license renewal cycle and again at the end of the license renewal cycle.~~

~~(5) The educator shall develop the professional learning plan and maintain documentation of the plan.~~

~~C. License Renewal Points~~

~~(1) To be valid for renewal, the professional learning plan shall document that the educator has earned the appropriate number of license renewal points as defined in R277-500-3.~~

~~(2) License holders may accrue license renewal points beginning with the date of each new license renewal.~~

~~(3) A Level 1 license holder shall earn at least 100 license renewal points in each three year period. A Level 1 license may only be renewed consistent with R277-504-3D.~~

~~(4) A Level 2 license holder shall earn at least 200 license renewal points in each 5 year period.~~

~~(5) A Level 3 license holder shall earn at least 200 license renewal points in each 7 year period.~~

~~D. Documentation~~

~~(1) Each Utah license holder shall be responsible for maintaining documentation supporting completion of the professional learning plan.~~

~~(2) It is the educator's responsibility to retain documentation of professional learning activities with appropriate signatures.~~

~~(3) All documentation relevant to the professional learning plan shall be retained by the educator for a minimum of two years from the designated renewal date.~~

~~E. Educator Ethics Review~~

~~(1) Completion of the USOE Educator Ethics Review shall be required for the renewal of a Utah educator license beginning January 1, 2011.~~

~~(2) No license may be renewed prior to the completion of the USOE Educator Ethics Review.~~

~~(3) The Ethics Review shall be completed within one calendar year prior to license renewal.~~

~~F. The Superintendent may renew an educator's license if:~~

- ~~(1) the educator's background check is complete; and~~
- ~~(2) the educator is currently enrolled in ongoing monitoring through registration with the systems described in Section 53G-11-404.~~

R277-500-4. Educator License Renewal Procedures.

~~A. An active educator license holder shall satisfy the final review and obtain the appropriate signatures regarding completion of the professional learning plan between January 1 and June 30 of the educator's assigned renewal year.~~

~~(1) A Level 2 or 3 educator license holder who has completed all additional requirements for renewal shall complete the online renewal provided by USOE between January 1 and June 30 of the educator's assigned renewal year.~~

~~(2) A Level 1 educator license holder who has completed all additional requirements for renewal shall submit the Professional Learning Plan Completion Form to the USOE between January 1 and June 30 of the educator's assigned renewal year. Forms that are not complete or do not bear original signatures shall not be processed.~~

~~(3) An educator's failure to complete the online process or submit the completion form consistent with deadlines in this rule shall result in beginning anew the administrative licensure process, including all attendant fees and criminal background checks.~~

~~B. An inactive educator license holder shall satisfy the final review and obtain the appropriate signatures regarding completion of the professional learning plan within one calendar year prior to the date on which the inactive educator license holder is directed/scheduled to renew the license.~~

~~(1) A Level 2 or 3 educator license holder who has completed all additional requirements for renewal shall complete the online renewal process provided by USOE between January 1 and June 30 of the educator's assigned renewal year.~~

~~(2) A Level 1 educator license holder who has completed all additional requirements for renewal shall submit the Professional Learning Plan Completion Form to the USOE between January 1 and June 30 of the educator's assigned renewal year. Forms that are not complete or do not bear original signatures shall not be processed.~~

~~(3) An educator's failure to complete the online process or submit the completion form consistent with deadlines shall result in beginning anew the licensure process, including all attendant fees and criminal background checks.~~

~~C.(1) An educator shall obtain the signature of the educator's direct administrative supervisor on the educator's renewal form.~~

~~(2) The educator's direct administrative supervisor described in R277-500-4C(1) shall be a licensed administrator.~~

~~(3) If an educator's supervisor is not a licensed administrator then the form shall be signed by the next highest administrative supervisor who is a licensed administrator.~~

~~(4) If the educator is the highest administrative authority in the LEA then the form shall be signed by the president or chairperson of the LEA's governing board.~~

~~D. An educator who is seeking a license renewal shall obtain the signature of a licensed administrator on the educator's license renewal form.~~

~~E.(1) The Superintendent shall charge a fee, set by the Superintendent, to an educator seeking renewal from an inactive status or requesting level changes.~~

~~(2) The Superintendent shall charge an educator with an active license renewal fee consistent with R277-502~~

~~F. The Superintendent shall audit a random sample of approximately ten percent of the annual online renewals.~~

~~G. An educator selected for an audit described in R277-500-4F:~~

~~(1) shall submit the Professional Learning Plan Completion Form with the appropriate signatures to the USOE in a timely manner.~~

~~(2) shall receive a warning letter and may be referred to UPPAC if documentation is not submitted as requested.~~

~~(3) shall be referred to UPPAC for possible license discipline if the documentation reveals fraudulent or unprofessional actions.~~

~~H. The Superintendent may review or audit renewal transactions including the professional learning plan, signatures, and documentation of professional learning activities.~~

~~R277-500-5. Categories of Acceptable Activities for License Renewal.~~

~~A(1) An educator may earn licensure renewal points based on the educator's employment in a position requiring a Utah educator license during the educator's license cycle.~~

~~(2) An educator may only count years of employment with satisfactory performance evaluations for license renewal points.~~

~~(3) A Level 1 license holder may earn 25 license renewal points per year of employment to a maximum of 50 points per license cycle.~~

~~(4) A Level 2 or 3 license holder may earn 35 license renewal points per year of employment to a maximum of 105 points per license cycle.~~

~~B(1) An educator shall complete a college or university course with a C or better, or a pass, to have the course apply to the educator's license.~~

~~(2) Each semester hour of university or college credit, as recorded on an official transcript, equals 18 license renewal points.~~

~~C(1) USOE professional learning credit:~~

~~(a) shall be approved as described in R277-519-3; and~~

~~(b) shall be successfully completed through attendance and through completion of required project(s).~~

~~(2) Each semester credit hour equals 15 license renewal points.~~

~~(3) An LEA may request approval of USOE professional learning credit by submitting a request to the Superintendent through the USOE sponsored online professional learning tracking system.~~

~~(4) An LEA shall request approval from the Superintendent at least four weeks prior to the beginning date of the scheduled professional learning activity.~~

~~(5) The professional learning credit may be denied if the LEA does not seek approval from the Superintendent in advance.~~

~~D. An LEA sponsored or approved professional learning activity:~~

~~(1) shall be approved by the LEA at least four weeks prior to the scheduled activity; and~~

~~(2) may include LEA or school based professional learning such as:~~

~~(a) participating in professional learning communities;~~

~~(b) development of LEA or school curriculum;~~

~~(c) planning and implementation of a school improvement plan;~~

~~(d) mentoring a Level 1 teacher;~~

~~(e) engaging in instructional coaching;~~

~~(f) conducting action research;~~

~~(g) studying student work with colleagues to inform instruction.~~

~~E. Each clock hour of scheduled professional learning activity time equals one license renewal point, not to exceed 25 points per activity per year.~~

~~F(1) Acceptable alternative professional learning activities for an educator include activities that enhance or improve education, yet may not fall into a specific category if the activities are approved by:~~

~~(a) the educator's supervisor;~~

~~(b) by a licensed administrator if the educator is an inactive educator; or~~

~~(c) the Superintendent, with prior written approval by the Superintendent.~~

~~(2) Each clock hour of participation equals one license renewal point, not to exceed 25 points per activity.~~

~~G. Conferences, workshops, institutes, symposia, or staff development programs:~~

~~(1) Acceptable workshops and programs shall be approved by the educator's supervisor, by a licensed administrator if the educator is an inactive educator, or with prior written approval by the Superintendent.~~

NOTICES OF PROPOSED RULES

~~_____ (2) Each clock hour of participation equals one license renewal point, not to exceed 25 points per activity.~~

~~_____ G. Content and pedagogy testing:~~

~~_____ (1) Acceptable tests include those approved by the Board.~~

~~_____ (2) Each Board approved test score report submitted, with a passing score, equals 25 license renewal points.~~

~~_____ (3) Each test must be related to the educator's current or potential license area(s) or endorsement(s).~~

~~_____ (4) No more than two test score reports may be submitted in a license cycle.~~

~~_____ H. Utah university sponsored cooperating teachers:~~

~~_____ (1) An educator working as a cooperating teacher with one or more student teachers may earn license renewal points.~~

~~_____ (2) Each clock hour spent supervising, collaborating with, and mentoring assigned student teachers equals one license renewal point not to exceed 25 points per license renewal cycle.~~

~~_____ I. Service in a leadership role in a national, state-wide, or LEA recognized professional education organization:~~

~~_____ (1) Acceptable service shall be approved by the educator's supervisor or by a licensed administrator if the educator is an inactive educator.~~

~~_____ (2) Each clock hour of participation equals one license renewal point, not to exceed 10 points per year.~~

~~_____ J. Educational research and innovation that results in a final, demonstrable product:~~

~~_____ (1) Acceptable activities shall be approved by the educator's supervisor or by a licensed administrator if the educator is an inactive educator.~~

~~_____ (2) The research activity shall be consistent with school and LEA policy.~~

~~_____ (3) Each clock hour of participation equals one license renewal point, not to exceed 35 points per activity.~~

~~_____ K. Substituting in a Utah public LEA or accredited private school:~~

~~_____ (1) shall be considered an acceptable professional learning activity only for inactive educators paid and authorized as substitutes.~~

~~_____ (2) Two hours of documented substitute time equals one license renewal point, not to exceed 25 points per year or 50 points per license cycle.~~

~~_____ (3) Verification of hours shall be documented on LEA or school letterhead, list dates of employment, and signed by the supervising administrator.~~

~~_____ L. Paraprofessional or volunteer service in a Utah public LEA or accredited private school:~~

~~_____ (1) shall be considered an acceptable professional learning activity only for inactive educators.~~

~~_____ (2) Three hours of documented paraprofessional or volunteer service equals one license renewal point, not to exceed 25 points per year or 50 points per license cycle.~~

~~_____ (3) Verification of hours shall be documented on LEA or school letterhead, list dates of service, and signed by the supervising administrator.~~

~~_____ M. Credit for LEA lane change or other purposes is determined by the LEA and is awarded at the LEA's discretion. USOE professional learning credit should not be assumed to be credit for LEA purposes, such as salary or lane change credit.~~

R277 500 6. Board Directive to Educator License Holders for Fingerprint Background Check.

~~_____ A(1) The Superintendent shall require a licensed educator or license applicant to submit to a fingerprint background check and ongoing monitoring by the Superintendent through registration with~~

~~the systems described in Section 53G-11-404 as a condition of licensure in Utah.~~

~~_____ (2) A licensed educator shall submit a new fingerprint background check for ongoing monitoring within one calendar year prior to the date of the educator's next license renewal after July 1, 2015.~~

~~_____ (3) A license applicant shall submit a new fingerprint background check for ongoing monitoring by the Superintendent.~~

~~_____ (a) If a license applicant submits a new fingerprint background check on or after July 1, 2015, the Superintendent shall require the license applicant to be enrolled in ongoing monitoring before the Superintendent may issue a new license to the license applicant.~~

~~_____ (b) The Superintendent may issue a new license to a license applicant without enrolling the license applicant in ongoing monitoring if the license applicant's background check was cleared:~~

~~_____ (i) less than three years prior to the issue date of the license; and~~

~~_____ (ii) prior to July 1, 2015;~~

~~_____ (4) The Superintendent shall discontinue monitoring an individual through the systems described in Section 53G-11-404:~~

~~_____ (a) for a licensed educator, one year after the expiration of the most recently issued license; or~~

~~_____ (b) for a license applicant, five years after the submission of the background check.~~

~~_____ (5) If the fingerprint background check for a licensed educator or a license applicant is incomplete or under review by the Utah Professional Practices Advisory Commission (UPPAC), the individual's CACTUS file will direct the reviewer of the file to the Superintendent for further information.~~

~~_____ B. The Superintendent may direct a Utah educator license holder to have a criminal fingerprint background check under Section 53E-6-401 for good cause shown.~~

~~_____ C. If an educator license holder fails to comply with the directive in a reasonable time, following reasonable notice, and adequate due process, the educator license holder's license may be put into a pending status in the educator's CACTUS file subject to the educator license holder's compliance with the directive.~~

~~_____ D. The Board or its designee may review an educator license holder's compliance with the directive prior to the final decision about the educator license holder's license status.~~

R277 500 7. Exceptions or Waivers to this Rule.

~~_____ A. The Superintendent may make exceptions to the provisions of this rule for unique and compelling circumstances if the exception is granted consistent with the purposes of this rule and the authorizing statutes.~~

~~_____ B. An educator may request an exception described in R277 500 7A.~~

~~_____ C. An educator shall submit a request to the Superintendent for an exception described in R277 500 7C in writing at least 30 days prior to the license holder's renewal date.~~

~~_____ D. The Superintendent shall approve or deny a request for an exception described in R277 500 7C in a timely manner.~~

~~_____ E. A denial of a request described in R277 500 7D is not subject to administrative appeal.~~

KEY: ~~educator license renewal, professional learning, fingerprint background check~~

Date of Enactment or Last Substantive Amendment: ~~August 26, 2015~~

Notice of Continuation: ~~July 1, 2015~~

~~Authorizing, and Implemented or Interpreted Law: 53E-6-201; 53E-3-401(4)]~~

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-550	Filing No. 52857

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R277-550. Charter Schools - Definitions
3. Purpose of the new rule or reason for the change:
The Utah State Board of Education (Board) Rule R277-550 is being amended due to amendments in Board Rule R277-552 and due to H.B. 242 passed in the 2020 General Session. (EDITOR'S NOTE: The proposed amendment to Rule R277-552 is under Filing No. 52859 in this issue, July 1, 2020, of the Bulletin.)
4. Summary of the new rule or change:
Rule R277-550 is amended to update requirements for authorizer expansion and satellite school approval processes. In addition, other procedures for new school approval and changing authorizers have been updated.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. H.B. 242 (2020) amended provisions related to charter schools. As a result, the Board updated Board Rule R277-552. This rule is being amended due to amendments in Rule R277-552.

B) Local governments:
This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. H.B. 242 (2020) amended provisions related to charter schools. As a result, the Board updated Board Rule R277-552. This rule is being amended due to amendments in Rule R277-552.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. H.B. 242 (2020) amended provisions related to charter schools. As a result, the Board updated Board Rule R277-552. This rule is being amended due to amendments in Rule R277-552.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industrial Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):
This rule change is not expected to have independent fiscal impacts on revenues or expenditures for persons other than small businesses, businesses, or local government entities. H.B. 242 (2020) amended provisions related to charter schools. As a result, the Board updated Board Rule R277-552. This rule is being amended due to amendments in Rule R277-552.
F) Compliance costs for affected persons:
There are no independent compliance costs for affected persons. H.B. 242 (2020) amended provisions related to charter schools. As a result, the Board updated Board Rule R277-552. This rule is being amended due to amendments in Rule R277-552.
G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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
H) Department head approval of regulatory impact analysis:			
The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.			
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:			
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.			

B) Name and title of department head commenting on the fiscal impacts:
Sydnee Dickson, State Superintendent

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):		
Article X, Section 3	Subsection 53E-3-401(4)	Title 53G, Chapter 5

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	07/31/2020

10. This rule change MAY become effective on:	08/07/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	06/15/2020
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R277. Education, Administration.

R277-550. Charter Schools - Definitions.

R277-550-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and
 - (c) Title 53G, Chapter 5, Charter Schools, which allows the Board to make rules governing aspects of operations of charter schools.
- (2) The purpose of this rule is to establish definitions for rules governing charter schools.

(3) The definitions contained in this rule apply to Rules R277-550 through R277-555.

R277-550-2. Definitions.

(1) "Amendment" means a change or addition to a charter agreement.

(2) "Authorizer" means an entity approved to authorize the establishment of a charter school under Sections 53G-5-304 through 53G-5-306.

(3) "Charter school" means a public school created in accordance with the provisions of Title 53G, Chapter 5, Charter Schools.

(4)(a) "Charter school agreement" or "Charter agreement" means a written agreement between a charter school and its authorizer containing the terms and conditions for the operation of a charter school.

(b) The charter school agreement maintained by a charter school's authorizer is the final, official, and complete agreement.

(5) "Charter school deficiency" means:

(a) failure of a charter school to comply with its charter agreement, including governance, financial, academic, or operational obligations;

(b) failure of a charter school to comply with the requirements of state or federal law or board rule;

(c) failure of a charter school to meet terms established by the school's authorizer as part of a remediation process; or

(d) fraud or misuse of funds by charter school governing board members or employees.

(6) "Charter school governing board" means the local board that governs a charter school.

(7) "Expansion" means:

(a) an increase in the number of grade levels offered by a charter school identified by a single school number; or

(b) an increase in the number of students for which a charter school identified by a single school number is authorized to receive funding.

(8) "Mentor" means an individual or organization with expertise or demonstrated competence, approved by the State Charter School Board to advise charter schools in the Mentoring Program.

(9) "Mentoring program" means the State Charter School Board mentoring program.

(10) "New school" means any school receiving a new school number, including a new charter school, or a new satellite school.

(11) "Net lease adjusted debt burden ratio" means a school's cumulative annual debt service payments, inclusive of loans and facility lease payments, divided by the school's unrestricted annual operating revenue.

~~(10) "Probation" means a written formal action and notification through which a school is required to demonstrate the school's compliance with the authorizer's probationary requirements.~~

~~(11) "Replication school" means a charter school affiliated with an existing charter school physically located in the state of Utah that:~~

~~(a) has the same governing board as the existing charter school;~~

~~(b) has a similar program of instruction as the existing charter school;~~

~~(c) is located at a different site or in a different geographical area than the existing charter school; and~~

~~(d) has a separate school number than the existing charter school.]~~

(12) "Non-operating charter school" means a charter school that has not received minimum school program funds or federal funds

and is not providing educational services during a fiscal year, such as a charter school in a start-up period.

(13) "Operating charter school" means a charter school that has received minimum school program funds or federal funds and is providing educational services during a fiscal year.

~~(14) "Probation" means a written formal action and notification through which a school is required to demonstrate the school's compliance with the authorizer's probationary requirements.~~

~~(15) "Restricted revenue" means the same as the term is defined in Section 63J-1-102.~~

(14) "Satellite school" means a charter school affiliated with an existing charter school physically located within the state of Utah that:

(a) has the same governing board as the existing charter school;

(b) ~~has a~~ may have a similar or different program of instruction or grades served from the existing charter school;

(c) is located at a different site or in a different geographical area than the existing charter school; and

(d) has a separate school number than the existing charter school.

(15) "School number" means a number assigned by the Superintendent in accordance with National Center for Education Statistics criteria that identifies a distinct school within an LEA.

(16) "State Charter School Board" means the board established in Section 53G-5-201.

(17) "Unrestricted revenue" means revenue that is:

~~(a) not restricted revenue; or~~

~~(b) restricted revenue that may be used for purposes of paying for annual debt service payments, including loans and facility lease payments.~~

(18) "Utah Consolidated Application" or "UCA" means the web-based grants management tool employed by the Superintendent through which LEAs submit plans and budgets for approval by the Superintendent or Board.

(19) "Utah eTranscript and Record Exchange" or "UTREx" has the same meaning as described in Subsection R277-484-2(11).

KEY: education, charter schools

Date of Enactment or Last Substantive Amendment: ~~January 9, 2019~~ 2020

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53G-5-205

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-552	Filing No. 52859

Agency Information

1. Department:	Education
Agency:	Administration
Building:	Board of Education
Street address:	250 E 500 S
City, state:	Salt Lake City, UT 84111
Mailing address:	PO Box 144200

NOTICES OF PROPOSED RULES

City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R277-552. Charter School Timelines and Approval Processes
3. Purpose of the new rule or reason for the change:
Rule R277-552 is being amended due to the Board's recent review of an authorizer's processes and due to H.B. 242, which was passed in the 2020 General Session.
4. Summary of the new rule or change:
Rule R277-552 is amended to update requirements for authorizer expansion and satellite school approval processes. In addition, other procedures for new school approval and changing authorizers have been updated.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. H.B. 242 (2020) amended charter school authorizer processes. The changes in this amendment are a result of requirements in this legislation.
B) Local governments:
This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. H.B. 242 (2020) amended charter school authorizer processes. The changes in this amendment are a result of requirements in this legislation.
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. H.B. 242 (2020) amended charter school authorizer processes. The changes in this amendment are a result of requirements in this legislation.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North

American Industrial Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. H.B. 242 (2020) amended charter school authorizer processes. The changes in this amendment are a result of requirements in this legislation.

F) Compliance costs for affected persons:

There are no expected independent compliance costs for affected persons. H.B. 242 (2020) amended charter school authorizer processes. The changes in this amendment are a result of requirements in this legislation.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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

H) Department head approval of regulatory impact analysis:

The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

B) Name and title of department head commenting on the fiscal impacts:

Sydnee Dickson, State Superintendent

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Article X, Section 3	Sections 53G-5-304 through 53G-5-306	20 U.S.C. Sec. 8063
Subsection 53E-3-401(4)	Section 53F-2-702	Subsection 53G-6-504(5)

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members.

Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/31/2020

10. This rule change MAY become effective on: 08/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	06/15/2020
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R277. Education, Administration.

R277-552. Charter School Timelines and Approval Processes.

R277-552-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities;
 - (c) Subsection 53G-6-504(5), which requires the Board to make rules regarding a charter school expansion or satellite campus;
 - (d) Sections 53G-5-304 through 53G-5-306, which require the Board to make a rule providing a timeline for the opening of a charter school;
 - (e) Section 53F-2-702, which directs the Board to distribute funds for charter school students directly to the charter school;
 - (f) the Charter School Expansion Act of 1998, 20 U.S.C. Sec. 8063, which directs the Board to submit specific information prior to a charter school's receipt of federal funds; and
 - (g) Subsection 53G-5-205(5), which requires the Board to make rules establishing minimum standards that an [charter school] authorizer is required to apply in authorizing and monitoring charter schools.
- (2) The purpose of this rule is to:
 - (a) establish procedures for timelines and approval processes for new charter schools; and
 - (b) provide criteria and standards for consideration of high performing charter schools to expand and request new schools that are satellite schools.

R277-552-2. Charter School Authorization Process.

- (1) An individual or non-profit organization as described in Subsection 53G-5-302(2)(b) may apply to open a charter school from any statutorily approved authorizer.
- (2) An authorizer shall submit a process to the Board for approval of:
 - (a) a new charter school;
 - (b) a charter school expansion; or

NOTICES OF PROPOSED RULES

(c) ~~[a replication school; or~~
~~(d)]~~ a satellite school.
(3) A new authorizer shall submit a new charter school application process to the Board for approval at least six months prior to accepting applications for a new charter school.

(4) An existing authorizer may not authorize a new charter school for the 2021-22 school year and beyond until the Board approves the authorizer's application process.

(4)(5)(a) The Board shall approve or deny an authorizer's proposed application process, including expansion and satellite approval processes, within ~~[65]~~90 days of receipt of the proposed process from an authorizer.

(b) If the Board denies an application process, the Superintendent shall provide a written explanation of the reasons for the denial to the applicant within 45 days.

(c) If an authorizer's application process is denied, the authorizer may submit a revised application process for approval at any time.

~~(5) An existing authorizer may not authorize a new charter school for the 2021-22 school year and beyond until the Board approves the authorizer's application process.]~~

(6) An authorizer shall have an application and charter agreement, which shall include all elements required by Title 53G, Chapter 5, Part 3, Charter School Authorization.

(7) An authorizer shall maintain the official signed charter agreement, which shall presumptively be the final, and complete agreement between a school and the school's authorizer.

(8) An authorizer's review process for a new charter school shall include:

- (a) a plan for mandatory pre-operational and other trainings;
- (b) an evaluation of the school's governing board, including:
 - (i) a review of the resumes of and background information of proposed governing board members; and
 - (ii) a capacity interview of the proposed governing board;
- (c) an evaluation of the school's financial viability, including:
 - (i) a market analysis;
 - (ii) anticipated enrollment; and
 - (iii) anticipated and break even budgets;
- (d) an evaluation of the school's academic program and academic standards by which the authorizer will hold the school accountable; and
- (e) an evaluation of the school's proposed pre-operational plan, including implementation of:

- (i) applicable legal requirements for public schools;
- (ii) required policies;
- (iii) student data systems, including student data privacy requirements;
- (i)(iv) reporting; and
- (i)(v) financial management.

(9) An authorizer's review process shall include contacting the school district in which a proposed charter school will be located and consideration of any feedback provided by the district.

(10) An authorizer shall design its approval process so that the authorizer notifies the Superintendent of an authorizer approval of a request identified in Subsection (2) no later than October 1, one fiscal year prior to the state fiscal year the charter school intends to serve students.

R277-552-3. Timelines - Charter School Starting Date and Facilities.

(1) A charter school may receive state start-up funds if the charter school is approved as a new charter school by October 1, one

fiscal year prior to the state fiscal year the charter school intends to serve students.

(2) Prior to receiving state start-up funds an authorizer, other than the State Charter School Board, shall certify in writing to the State Charter School Board that a charter school has:

- (a) completed all required financial~~[identifying]~~ documents;
- (b) completed background checks for each governing board member; and
- (c) executed a signed charter agreement, which includes academic goals.

(3) Prior to an LEA receiving state start-up funds, the State Charter School Board shall require the LEA to submit documentation supporting the information required in Subsections (2)(a) and (c) to the Superintendent.

(4) A charter school may receive state funds, including minimum school program funds, if the charter school authorizer certifies in writing to the Superintendent by June 30 prior to the school's first operational year that:

- (a) the charter school meets the requirements of Subsection (2);
- (b) the charter school's governing board has adopted all policies required by statute or ~~[b]~~Board rule, including a draft special education policies and procedures manual;
- (c) the charter school's governing board has adopted an annual calendar in an open meeting and has submitted the calendar to the Superintendent;
- (d) the authorizer has received the charter school's facility contract as required by Subsection 53G-5-404(9);

(e) the charter school has met the requirements of Subsections (5) and (6) and that the school's building is ~~[on track to be completed]~~ scheduled for completion, including all required inspections, prior to occupancy;

(f)(i) the charter school has hired an executive director and a business administrator; or

(ii)(A) the charter school governing board has designated an executive director or business administrator employed by a third party; and

(B) the charter school governing board has established policies regarding the charter school's supervision of the charter school's third-party contractors;

(g) the charter school's enrollment is on track to be sufficient to meet the school's financial obligations and implement the charter school agreement;

(h) the charter school has an approved student data system that has successfully communicated with UTREx, including meeting the compatibility requirements of Subsection R277-484-5(3);~~[and]~~

(i) the charter school has a functional accounting system~~[-];~~
and

(j) the charter school has a budgeted net lease adjusted debt burden ratio of under 30% based on the school's executed facility agreement; and

(k) the charter school has complied with all legal requirements for new charter schools in a school's pre-operational year.

(5) An authorizer shall:

(a) create a process to verify the requirements in Subsection (4);

(b) maintain documentation of Subsection (5)(a); and

(c) provide the documentation described in Subsection (5)(b) to the Superintendent upon request.

(6) A charter school shall begin construction on a new or existing facility requiring major renovation, such as requiring a project

number consistent with Rule R277-471, no later than January 1 of the year the charter school is scheduled to open.

(7) A charter school that intends to occupy a facility requiring only minimal renovation, such as renovation not requiring a project number according to Rule R277- 471, shall enter into a written agreement no later than May 1 of the calendar year the charter school is scheduled to open.

(8) If a charter school fails to meet the requirements of this section within 36 months of approval, the approval of the charter school shall expire.

R277-552-4. Charter Amendment Requests.

(1) An authorizer shall have a policy establishing a process for consideration of proposed amendments to a school's charter agreement.

(2) An authorizer's timeline for consideration of an amendment to a charter agreement may not conflict with any funding deadline established in Board rule.

R277-552-5. Charter School Expansion Requests.

~~(1) A charter school may request approval for an expansion if:~~

~~(a) the charter school satisfies the requirements of federal and state law, regulations, rule, and the charter agreement; and~~

~~(b)(i) the charter school's charter agreement provides for an expansion consistent with the request; or~~

~~(ii) the charter school governing board has submitted a formal amendment request to the charter school authorizer consistent with the charter school authorizer's requirements.~~

~~(2) If the charter school authorizer approves a charter school expansion, the expansion shall be approved before October 1 of the state fiscal year prior to the school's intended expansion date.~~

~~(3) A charter school authorizer that authorizes an expansion of the authorizer's charter school shall provide the total number of students by grade that the charter school is authorized to enroll to the Superintendent on or before October 1 of the state fiscal year prior to the charter school's intended expansion date.~~

~~(4) When considering whether to approve a charter school's request for an expansion, an authorizer shall consider the following:~~

~~(a) the amount of time the charter school has operated successfully meeting the terms of its charter agreement;~~

~~(b) two years of academic performance data of students at the charter school, including whether the charter school is performing at or above:~~

~~(i) the academic goals established in the charter school's charter agreement; and~~

~~(ii) the average academic performance of other district and charter schools in the area, or for schools targeting specific populations, schools with similar demographics;~~

~~(c) the financial position of the charter school, as evidenced by the charter school's financial records, including the charter school's:~~

~~(i) most recent annual financial report (AFR);~~

~~(ii) annual program report (APR); and~~

~~(iii) audited financial statement;~~

~~(d) whether the charter school has a waiting list for enrollment;~~

~~(e) adequacy of the charter school's facility;~~

~~(f) any student safety issues; and~~

~~(g) ability to meet state and federal reporting requirements, including whether the charter school has regularly met Board reporting deadlines.~~

~~(5) A charter school requesting an expansion shall provide the information described in Subsection (4) to the authorizer with the charter school's request for expansion.]~~

(1) An authorization process developed by an authorizer in accordance with Subsection R277-552-2(2) shall comply with this Section R277-552-5 for a charter school expansion.

(2) An authorizer may only consider an application from a charter school for an expansion if:

(a) the charter school is in compliance with the requirements of federal and state law, regulations, and Board rule, including:

(i) Title 53E, Chapter 9, Student Privacy and Data Protection;

(ii) Title 53G, Chapter 7, Part 5, Student Fees;

(iii) Title 53G, Chapter 9, Part 7, Suicide Prevention;

(iv) Title 53G, Chapter 8, Discipline and Safety;

(v) Title 52, Chapter 4, Open and Public Meetings Act;

(vi) Title 63G, Chapter 6a, Utah Procurement Code; and

(vii) the IDEA and Rule R277-750, with no unresolved audit exceptions;

(viii) Rule R277-113, Local Education Agency (LEA) Fiscal and Auditing Policies;

(ix) Section 53G-9-207, Child sexual abuse prevention; and

(x) Subsection 63G-7-301(3) and Rule R277-322;

(b) the request is consistent with the charter school's charter agreement;

(c) the charter school has maintained for each of the last three years:

(i) a re-enrollment rate of at least 80%;

(ii) a wait list of at least 40% of its annual enrollment; or

(iii) other evidence of market demand satisfactory to the authorizer.

(d) the expanding school is performing:

(i) consistent with or above the charter school's stated academic goals; and

(ii) at or above the average student performance of other nearby schools on statewide assessments, unless serving a specialized population consistent with the school's charter agreement;

(e) if the proposed expansion will require additional physical facilities, the charter school has maintained a net lease adjusted debt burden ratio of under 25% for each of the last three years;

(f) the charter school's financial statements report revenues in excess of expenditures for at least three of the last four fiscal years; and

(g) the charter school provides any additional information or documentation requested by the charter school authorizer.

(3) An authorizer shall provide documentation of an applicant school's eligibility to apply under Subsection (2) to the Superintendent upon request.

(4) An authorizer may only approve an application from a charter school for an expansion if:

(a) the charter school is meeting the terms of its charter agreement;

(b) the charter school is academically and operationally successful, taking into consideration at least two years of academic performance data of students at the charter school;

(c) the charter school:

(i) provides educational services consistent with state law and Board rule;

(ii) administers and has capacity to carry out statewide assessments including proctoring statewide assessments, consistent with Section 53E-4-303 and Rule R277-404; and

(iii) provides evidence-based instruction for special populations as required by federal law;

(d) the charter school has adequate qualified administrators and staff to meet the needs of the proposed student population at the school;

(e) the school is in compliance with all applicable school legal obligations;

(f) the charter school is financially viable, as evidenced by the charter school's financial records, including the charter school's:

(i) most recent annual financial report;

(ii) annual program report; and

(iii) audited financial statement;

(g) the charter school's proposal provides an adequate facility for the school; and

(h) the charter school has appropriately dealt with student safety issues, if any.

(5) An authorizer shall:

(a) approve a proposed expansion before October 1 of the state fiscal year prior to the school year that the intends to expand; and

(b) provide the total number of students by grade that the charter school expansion is authorized to enroll to the Superintendent on or before October 1 of the state fiscal year prior to the school year that the school intends to expand.

R277-552-6. Requests for a New ~~Replication or~~ Satellite School for an Approved Charter School.

~~[(1) A charter school and all of the charter school's replication or satellite schools are a single LEA for purposes of public school funding and reporting.~~

~~(2) An existing charter school may submit a request to the charter school's authorizer for a replication or satellite charter school if:~~

~~(a) the charter school satisfies requirements of federal and state law, regulations, and rules;~~

~~(b) the charter school has operated successfully for at least three years meeting the terms of its charter agreement;~~

~~(c) the students at the charter school are performing on standardized assessments at or above the academic goals in the charter agreement, or, if there are no such goals in the charter agreement, are performing at or above surrounding schools;~~

~~(d) the charter school has adequate qualified administrators and staff to meet the needs of the proposed student population at the replication or satellite charter school;~~

~~(e) the charter school provides any additional information or documentation requested by the charter school authorizer; and~~

~~(f) the charter school is in good standing with its authorizer.~~

~~(3) As part of the application process, the authorizer shall review the charter school's:~~

~~(a) educational services, assessment, and curriculum;~~

~~(b) governing board's capacity to manage multiple campuses; and~~

~~(c) the school's financial viability.~~

~~(4) A replication or satellite charter school that will receive School LAND Trust funds shall have a charter trust land council and satisfy all requirements for charter trust land councils consistent with Rule R277-477.~~

~~(5) A replication or satellite charter school may receive state funding if the authorizer approves the replication or satellite charter school by October 1 of the state fiscal year prior to the year the school intends to serve students.~~

~~(6) If a replication or satellite charter school does not open within 36 months of approval, the approval shall expire.~~

~~(7) A charter school authorizer that authorizes a replication or satellite charter school shall provide the total number of students by grade that the charter school is authorized to enroll to the Superintendent~~

~~on or before October 1 of the state fiscal year prior to the charter school's intended expansion date.]~~

(1) An authorization process developed by an authorizer in accordance with Subsection R277-552-2(2) shall comply with this Section R277-552-6 for a satellite school.

(2) An authorizer may only consider an application from a charter school for a satellite school if:

(a) the charter school is in compliance with the requirements of federal and state law, regulations, and Board rule, including:

(i) Title 53E, Chapter 9, Student Privacy and Data Protection;

(ii) Title 53G, Chapter 7, Part 5, Student Fees;

(iii) Title 53G, Chapter 9, Part 7, Suicide Prevention;

(iv) Title 53G, Chapter 8, Discipline and Safety;

(v) Title 52, Chapter 4, Open and Public Meetings Act;

(vi) Title 63G, Chapter 6a, Utah Procurement Code; and

(vii) the IDEA and Rule R277-750, with no unresolved audit exceptions;

(viii) Rule R277-113, Local Education Agency (LEA) Fiscal and Auditing Policies;

(ix) Section 53G-9-207, Child sexual abuse prevention; and

(x) Subsection 63G-7-301(3) and Rule R277-322;

(b) the request is consistent with the charter school's charter agreement;

(c) the charter school has maintained for each of the last three years:

(i) a reenrollment rate of at least 80%;

(ii) a waitlist of at least 40% of its annual enrollment; or

(iii) other evidence of market demand satisfactory to the authorizer.

(d) all schools operating under the governance of the existing charter school are performing:

(i) consistent with or above the charter school's stated academic goals; or

(ii) if no student performance goals have been established, above the standardized student assessment measures of other comparable nearby schools;

(e) the charter school has maintained a net lease adjusted debt burden ratio of under 25% for each of the last three years;

(f) the charter school's financial statements report revenues in excess of expenditures for at least three of the last four years;

(g) the charter school provides a market analysis, including documentation of the school's potential for enrollment stability, covering all public schools within a ten mile radius, including analysis of whether nearby schools are at enrollment capacity; and

(h) the charter school provides any additional information or documentation requested by the charter school authorizer.

(3) An authorizer shall provide documentation of an applicant school's eligibility to apply under Subsection (2) to the Superintendent upon request.

(4) An authorizer may only approve an application from a charter school for a satellite school if:

(a) the charter school is meeting the terms of its charter agreement;

(b) there is a demonstrated demand for the proposed satellite, taking into consideration the market analysis required under Subsection (2)(f);

(c) the charter school is academically and operationally successful, taking into consideration at least two years of academic performance data of students at the charter school, including whether the charter school is performing at or above;

(i) the academic goals established in the charter school's agreement; and

(ii) the average academic performance of other district and charter schools in the area or schools targeting similar populations or demographics;

(c) the charter school has plans for the new school to:

(i) provide educational services consistent with state law and Board rule;

(ii) administer and have capacity to carry out statewide assessments including proctoring statewide assessments, consistent with Section 53E-4-303 and Rule R277-404; and

(iii) provide evidence-based instruction for special populations as required by federal law;

(e) the charter school has adequate qualified administrators and staff to meet the needs of the proposed student population at the new school;

(f) the school is in compliance with all public school legal obligations;

(g) the charter school is in good standing with its authorizer; and

(h) the charter school is financially viable, as evidenced by the charter school's financial records, including the charter school's:

(i) most recent annual financial report;

(ii) annual program report;

(iii) audited financial statement.

(5) An authorizer shall:

(a) approve a proposed satellite school before October 1 of the state fiscal year prior to the school year that the proposed school intends to first serve students;

(b) provide the total number of students by grade that the satellite school is authorized to enroll to the Superintendent on or before October 1 of the state fiscal year prior to the school year that the proposed school intends to first serve students; and

(c) ensure that a proposed school that will receive School LAND Trust funds has a charter trust land council and satisfies all requirements of Rule R277-477, including transparency of information for parents.

(6) A charter school and all of the charter school's satellite schools are a single LEA for purposes of public school funding and reporting.

(7) If a satellite charter school does not open within 36 months of approval, the approval shall expire.

(8) If an authorizer denies an application for a satellite school, the school may immediately apply for a new charter in accordance with an authorizer's approved processes.

R277-552-7. Procedures and Timelines to Change Charter School Authorizers.

(1) A charter school may transfer to another charter school authorizer.

(2) A charter school shall submit an application to the new charter school authorizer at least 90 days prior to the proposed transfer.

(3) The charter school authorizer transfer application shall include:

(a) the name and contact information of all current governing board members;

(b) financial records that demonstrate the charter school's financial position, including the following:

(i) most recent annual financial report (AFR);

(ii) annual project report (APR); and

(iii) audited financial statement;

(c) test scores, including all state required assessments;

(d) current employees and assignments;

(e) board minutes for the most recent 12 months; and

(f) affidavits, signed by all board members certifying:

(i) the charter school's compliance with all state and federal laws and regulations, including documentation if requested;

(ii) all information on the transfer application is complete and accurate;

(iii) the charter school is current with all required charter school governing board policies;

(iv) the charter school is operating consistent with the charter school's charter agreement; and

(v) there are no outstanding lawsuits, judgments, or liens against the charter school.

(4) The current authorizer of a charter school seeking to transfer charter school authorizers shall submit a position statement to the new charter school authorizer about:

(a) the charter school's status;

(b) compliance with the charter school authorizer requirements; and

(c) unresolved concerns.

(5) If a school applies to change authorizer's, the existing authorizer shall advise the proposed authorizer if there is any outstanding debt to the existing authorizer or the state.

~~(5) A new charter school authorizer shall review an application for transferring to another charter school authorizer [for acceptance] within 60 days of submission of a complete application, including all required documentation.~~

~~(7) Prior to accepting a charter school's transfer from another authorizer, the new authorizer shall request and consider information from the Board and current authorizer concerning the charter school's financial and academic performance.~~

~~(8) The Superintendent and current authorizer shall provide the information described in Subsection (7) to a new charter authorizer within 30 days of request described in Subsection (7).~~

~~(6) If an authorizer accepts the transfer of a [new] charter school, the new authorizer shall notify the Superintendent within 30 days.~~

~~(7) Prior to accepting a charter school from another authorizer, a new charter authorizer shall request and consider information from the Board and current authorizer of the charter school's financial and academic performance.~~

~~(8) The Superintendent and current authorizer shall provide the information described in Subsection (7) to a new charter authorizer within 30 days of request described in Subsection (7).]~~

KEY: training, timelines, expansion, satellite

Date of Enactment or Last Substantive Amendment: [May 23, 2019]2020

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401; 53G-5-205; 53F-2-702; 53G-6-503

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.): R277-607

Filing No. 52860

Agency Information

1. Department: Education

Agency: Administration

Building: Board of Education

NOTICES OF PROPOSED RULES

Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R277-607. Truancy Prevention
3. Purpose of the new rule or reason for the change:
This rule is being amended to reflect updates to the Utah Code due to H.B. 14 passed in the 2020 General Session. The Utah Code updates definitions regarding what is an absence, valid excuse, and truancy.
4. Summary of the new rule or change:
The rule amends the title of the "truancy policy" to be the "absenteeism and truancy policy". The rule is also amended to include a requirement that each local education agency (LEA) create an attendance review team to review attendance data at least monthly to make prevention and intervention decisions.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. The rule is being amended to reflect statutory updates due to H.B. 14 (2020).
B) Local governments:
This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. The rule is being amended to reflect statutory updates due to H.B. 14 (2020).
C) Small businesses ("small business" means a business employing 1-49 persons):
This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. The rule is being amended to reflect statutory updates due to H.B. 14 (2020).

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North America Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The rule is being amended to reflect statutory updates due to H.B. 14 (2020).

F) Compliance costs for affected persons:

There are no independent compliance costs for affected persons. The rule is being amended to reflect statutory updates due to H.B. 14 (2020).

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0

Local Governments	\$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

H) Department head approval of regulatory impact analysis:

The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

B) Name and title of department head commenting on the fiscal impacts:

Sydnee Dickson, State Superintendent

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Article X, Section 3	Subsection 53E-3-401(4)	Section 53G-6-206
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in

the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/31/2020

10. This rule change MAY become effective on: 08/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	06/15/2020
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R277. Education, Administration.

R277-607. Absenteeism and Truancy Prevention.

R277-607-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3 which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state; and

(c) Section 53G-6-206, which directs educational entities and parents working on behalf of children to make efforts to resolve school attendance problems of school-age minors who are or who should be enrolled in an LEA.

(2) The purpose of this rule is to direct an LEA to create policies for truancy procedures and compulsory education.

R277-607-2. Definitions.

(1) "Absence" means the same as that term is defined in Subsection 53G-6-201(1).

(2) [~~"Habitual truant" means the same as that term is defined in Subsection 53G-6-201(2).~~

~~_____ (3) —] ["Habitual truant] Notice of truancy [~~-citation~~]" is a citation issued [~~only~~] consistent with Section 53G-6-203.~~

([4]3) "Truant" means the same as that term is defined in Subsection 53G-6-201(7).

([5]4) "Unexcused absence" means a student's absence from school for reasons other than those [~~authorized under the LEA policy~~] deemed a valid excuse.

([6]5) "Valid excuse" means the same as that term is defined in Subsection 53G-6-201(9).

R277-607-3. Absenteeism and Truancy Policy Requirements.

(1) An LEA shall:

(a) develop an absenteeism and truancy policy that encourages regular, punctual attendance of students, consistent with Section 53G-8-211 and Title 53G Public Education System -- Local Administration, Chapter 6 Participation in Public Schools, Part 2 Compulsory Education;

NOTICES OF PROPOSED RULES

(b) review the LEA's absenteeism and truancy policy [~~annually~~]regularly;

(c) create and operate an attendance review team as described in Subsection (3);

(~~e~~d) review attendance data annually and consider revisions to the absenteeism and truancy policy to encourage student attendance; and

(~~f~~e) make the absenteeism and truancy policy available for review by parents or interested parties.

(2) An LEA may issue a [~~habitual truant~~]notice of truancy[~~itation~~] to a student consistent with the LEA's absenteeism and truancy policy and Section 53G-6-203.

(3) An LEA's attendance review team shall:

(a) consist of:

(i) administrators including those responsible for:

(A) academic instruction;

(B) health and wellness;

(C) student support services; and

(D) attendance data;

(ii) where possible, community agencies; and

(iii) may include the LEA's multi-disciplinary team;

(b) review attendance data to inform actions and tiered interventions development at least monthly;

(c) create a systematic LEA and school level response for the LEA's absenteeism and truancy policy including:

(i) practice improvement; and

(ii) prevention and intervention strategies; and

(d) promote shared accountability and continuous improvement related to an LEA's absenteeism and truancy policy including a school level attendance plan developed at the end of the previous school year.

R277-607-4. Compulsory Education Procedures.

(1) An LEA shall develop compulsory education procedures as part of the LEA's absenteeism and truancy policy described in Section R277-607-3.

(2) The compulsory education procedures shall:

(a) provide a process for notice to parents about the absenteeism and truancy policy;

(b) require notice to parents regarding the progress of a student's discipline and consequences for violation of the truancy policy;

(c) provide an appeals process to contest:

(i) a notice of truancy; or

(ii) any disciplinary actions against a student pursuant to the absenteeism and truancy policy or;

(d) establish definitions not provided in law or this rule necessary to implement the absenteeism and truancy policy and compulsory education procedures;

(e) include definitions of:

(i) "approved school activity" under Subsection 53G-6-201(9)(c); and

(ii) "any other excuse" under Subsection 53G-6-201(9)(e);

(f) include criteria and procedures for preapproval of extended absences consistent with Section 53G-6-205; and

(g) establish programs and meaningful incentives which promote regular, punctual student attendance.

(3) An LEA shall publish the appeals process described in Subsection R277-607-4(2)(c) for use by a student or the student's parents.

KEY: compulsory education, truancy

Date of Enactment or Last Substantive Amendment: [~~October 8, 2019~~]2020

Notice of Continuation: June 5, 2020

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53G-6-206

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-609	Filing No. 52861

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
R277-609. Standards for LEA Discipline Plans and Emergency Safety Interventions
3. Purpose of the new rule or reason for the change:
Utah State Board of Education is amending Rule R277-609 due to H.B. 58, which was passed in the 2020 General Session.
4. Summary of the new rule or change:
Rule R277-609 is amended to require local education agencies (LEAs) to enact policies and procedures for responding to possession or use of electronic cigarette products by a student on school property as required by Section 53G-8-203. The rule has also been updated to include a new definition for electronic cigarette products.

Fiscal Information

5. Aggregate anticipated cost or savings to:

<p>A) State budget:</p> <p>This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. H.B. 58 (2020) defines and regulates the use of electronic cigarette products in schools. The amendments in this rule change are due to requirements in this legislation.</p>
<p>B) Local governments:</p> <p>This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. H.B. 58 (2020) defines and regulates the use of electronic cigarette products in schools. The amendments in this rule change are due to requirements in this legislation.</p>
<p>C) Small businesses ("small business" means a business employing 1-49 persons):</p> <p>This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. H.B. 58 (2020) defines and regulates the use of electronic cigarette products in schools. The amendments in this rule change are due to requirements in this legislation.</p>
<p>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</p> <p>There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.</p>
<p>E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):</p> <p>This rule change is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. H.B. 58 (2020) defines and regulates the use of electronic cigarette products in schools. The amendments in this rule change are due to requirements in this legislation.</p>
<p>F) Compliance costs for affected persons:</p> <p>There are no independent compliance costs for affected persons. H.B. 58 (2020) defines and regulates the use of electronic cigarette products in schools. The amendments</p>

in this rule change are due to requirements in this legislation.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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

H) Department head approval of regulatory impact analysis:

The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-

NOTICES OF PROPOSED RULES

small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

B) Name and title of department head commenting on the fiscal impacts:

Sydnee Dickson, State Superintendent

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Article X, Section 3	Section 53E-3-509	Section 53G-8-302
Subsection 53E-3-401(4)	Section 53G-8-702	
Subsection 53E-3-501(1)(b)(v)	Section 53G-8-202	

Incorporations by Reference Information

8. A) This rule adds, updates, or removes the following title of materials incorporated by references:

	First Incorporation
Official Title of Materials Incorporated (from title page)	LRBI Technical Assistance Manual
Publisher	Utah State Board of Education
Date Issued	2015

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/31/2020

10. This rule change MAY become effective on: 08/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a

Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	06/15/2020
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R277. Education, Administration.

R277-609. Standards for LEA Discipline Plans and Emergency Safety Interventions.

R277-609-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;
 - (b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;
 - (c) Subsection 53E-3-501(1)(b)(v), which requires the Board to establish rules concerning discipline and control;
 - (d) Section 53E-3-509, which requires the Board to adopt rules that require a local school board or governing board of a charter school to enact gang prevention and intervention policies for all schools within the board's jurisdiction;
 - (e) Section 53G-8-702, which requires the Board to adopt rules regarding training programs for school principals and school resource officers;
 - (f) Section 53G-8-202, which directs local school boards and charter school governing boards to adopt conduct and discipline policies and directs the Board to develop model policies to assist local school boards and charter school governing boards; and
 - (g) Section 53G-8-302, which describes the instances when a school employee may use reasonable and necessary physical restraint.
- (2)(a) The purpose of this rule is to outline requirements for school discipline plans, restorative practices and related policies.
- (b) An LEA's written policies shall include provisions to develop, implement, and monitor the policies for the use of emergency safety interventions in all schools and for all students within each LEA's jurisdiction.

R277-609-2. Definitions.

- (1) "Discipline" includes:
 - (a) imposed discipline; and
 - (b) self-discipline.
- (2) "Disruptive student behavior" includes:
 - (a) the grounds for suspension or expulsion described in Section 53G-8-205; and
 - (b) the conduct described in Subsection 53G-8-209(2)(b).
- (3) "Electronic cigarette product" has the same meaning as that term is defined in Section 76-10-101.
 - (~~3~~)(~~a~~)(4)(a) "Emergency safety intervention" or "ESI" means the use of seclusionary time out or physical restraint when a student presents an immediate danger to self or others.
 - (b) An "emergency safety intervention" is not for disciplinary purposes.
- (4)(~~5~~) "Emergency safety intervention committee" or "ESI Committee" means an emergency safety intervention committee described in Section R277-609-7.

~~[(5)](6)~~ "Evidence-based" means the same as defined in Section 53G-8-211.

~~[(6)](7)~~ "Functional Behavior Assessment" or "FBA" means a systematic process of identifying problem behaviors and the events that reliably predict occurrence and non-occurrence of those behaviors and maintain the behaviors across time.

~~[(7)](8)~~ "Immediate danger" means the imminent danger of physical violence or aggression towards self or others, which is likely to cause serious physical harm.

~~[(8)](9)~~ "Imposed discipline" means a code of conduct prescribed for the highest welfare of the individual and of the society in which the individual lives.

~~[(9)](10)~~ "LEA" includes, for purposes of this rule, the Utah Schools for the Deaf and the Blind.

~~[(10)](11)~~ "Physical restraint" has the same meaning as the defined in Section 53G-8-301.

(12) "Plan" means an LEA and school-wide written model for prevention and intervention addressing student behavior management, restorative practices, and discipline procedures for students.

~~[(12)](13)~~ "Positive behavior interventions and support" means an implementation framework for maximizing the selection and use of evidence-based prevention practices along a multi-tiered continuum that supports the academic, social, emotional, and behavioral competence of a student.

~~[(13)](14)~~ "Program" means an instructional or behavioral program including:

- (a) contracted services offered by private providers under the direct supervision of public school staff;
- (b) a program that receives public funding; or
- (c) a program for which the Board has regulatory authority.

~~[(14)](15)~~ "Policy" means standards and procedures that include:

(a) the provisions of Section 53G-8-202 and additional standards, procedures, and training adopted in an open meeting by a local board of education or charter school board that:

- (i) defines hazing, bullying, and cyber-bullying;
- (ii) prohibits hazing and bullying;
- (iii) requires training regarding:

(A) the prevention of hazing, bullying, cyber-bullying, and discipline among school employees and students; and

(B) the use of restorative practices, positive behavior interventions and supports, and emergency safety interventions; and

(iv) provides for enforcement through employment action or student discipline.

~~[(15)](16)~~ "Qualifying minor" means a school-age minor who:

- (a) is at least nine years old; or
- (b) turns nine years old at any time during the school year.

~~[(16)](17)~~ "Restorative justice program" means the same as that term is defined in Section 53G-8-211.

~~[(17)](18)~~ "Restorative practice" means the building and sustaining of relationships among students, school personnel, families and community members to build and strengthen social connections within communities and hold individuals accountable to restore relationships when harm has occurred.

~~[(18)](19)~~ "School" means any public elementary or secondary school or charter school.

~~[(19)](20)~~ "School employee" means:

- (a) a school teacher;
- (b) a school staff member;
- (c) a school administrator; or

(d) any other person employed, directly or indirectly, by an LEA.

~~[(20)](21)~~ "Seclusionary time out" means that a student is:

(a) placed in a safe enclosed area by school personnel in accordance with the requirements of Rules R392-200 and R710-4;

(b) purposefully isolated from adults and peers; and

(c) prevented from leaving, or reasonably believes that the student will be prevented from leaving, the enclosed area.

~~[(21)](22)~~ "Section 504 accommodation plan," required by Section 504 of the Rehabilitation Act of 1973, means a plan designed to accommodate an individual who has been determined, as a result of an evaluation, to have a physical or mental impairment that substantially limits one or more major life activities.

~~[(22)](23)~~ "Self-Discipline" means a personal system of organized behavior designed to promote self-interest while contributing to the welfare of others.

~~[(23)](24)~~ "Student with a qualifying offense" means a qualifying minor who committed an alleged class C misdemeanor, infraction, status offense on school property, or truancy.

R277-609-3. Incorporation of Least Restricted Behavioral Interventions (LRBI) Technical Assistance Manual by Reference.

(1) This rule incorporates by reference the LRBI Technical Assistance Manual, dated September 2015, which provides guidance and information in creating successful behavioral systems and supports within Utah's public schools that:

(a) promote positive behaviors while preventing negative or risky behaviors; and

(b) create a safe learning environment that enhances all student outcomes.

(2) A copy of the manual is located at:

(a) <https://www.schools.utah.gov/file/d6715b0b-9125-4132-86d3-179d8629a895>; and

(b) the Utah State Board of Education.

R277-609-4. LEA Responsibility to Develop Plans.

(1) An LEA or school shall develop and implement a board approved comprehensive LEA plan or policy for student and classroom management, school discipline and restorative practices.

(2) An LEA shall include administration, instruction and support staff, students, parents, community council, and other community members in policy development, training, and prevention implementation so as to create a community sense of participation, ownership, support, and responsibility.

(3) A plan described in Subsection (1) shall include:

(a) the definitions of Section 53G-8-210;

(b) written standards for student behavior expectations, including school and classroom management;

(c) effective instructional practices for teaching student expectations, including:

(i) self-discipline;

(ii) citizenship;

(iii) civic skills; and

(iv) social emotional skills;

(d) systematic methods for reinforcement of expected behaviors;

(e) uniform and equitable methods for correction of student behavior;

(f) consistent processes to collect student discipline data and incident or infraction data, including collection of the number of days of student suspensions;

NOTICES OF PROPOSED RULES

(g) uniform and equitable methods for at least annual school level data-based evaluations of efficiency and effectiveness;

(h) an ongoing staff development program related to development of:

- (i) student behavior expectations;
- (ii) effective instructional practices for teaching and reinforcing behavior expectations;
- (iii) effective intervention strategies; and
- (iv) effective strategies for evaluation of the efficiency and effectiveness of interventions;

(i) procedures for ongoing training of appropriate school personnel in:

- (i) crisis management;
- (ii) emergency safety interventions; and
- (iii) LEA policies related to emergency safety interventions consistent with evidence-based practice;

(j) policies and procedures relating to the use and abuse of alcohol, controlled substances, electronic cigarette products, and other harmful trends by students;

(k) policies and procedures for responding to possession or use of electronic cigarette products by a student on school property as required by Subsection 53G-8-203(3);

(k) policies and procedures, consistent with requirements of Rule R277-613, related to:

- (i) bullying;
- (ii) cyber-bullying;
- (iv) hazing; and
- (v) retaliation;

(l) policies and procedures for the use of emergency safety interventions for all students consistent with evidence-based practices including prohibition of:

(i) physical restraint, subject to the requirements of Section R277-609-5, except when the physical restraint is allowed as described in Subsection 53G-8-302(2);

- (ii) prone, or face-down, physical restraint;
- (iii) supine, or face-up, physical restraint;
- (iv) physical restraint that obstructs the airway of a student or adversely affects a student's primary mode of communication;
- (v) mechanical restraint, except:

- (A) protective or stabilizing restraints;
- (B) restraints required by law, including seatbelts or any other safety equipment when used to secure students during transportation; and

(C) any device used by a law enforcement officer in carrying out law enforcement duties;

- (vi) chemical restraint, except as:
- (A) prescribed by a licensed physician, or other qualified health professional acting under the scope of the professional's authority under State law, for the standard treatment of a student's medical or psychiatric condition; and

(B) administered as prescribed by the licensed physician or other qualified health professional acting under the scope of the professional's authority under state law;

(vii) seclusionary time out, subject to the requirements of Section R277-609-5, except when a student presents an immediate danger of serious physical harm to self or others; and

(viii) for a student with a disability, emergency safety interventions written into a student's IEP, as a planned intervention, unless:

- (A) school personnel, the family, and the IEP team agree less restrictive means have been attempted;
- (B) a FBA has been conducted; and

(C) a positive behavior intervention, based on data analysis has been written into the plan and implemented[{};{}]

(m) direction for dealing with bullying and disruptive students;

(n) direction for schools to determine the range of behaviors and establish the continuum of administrative procedures that may be used by school personnel to address student behavior, including students who engage in disruptive student behaviors as described in Section 53G-8-210;

(o) identification, by position, of an individual designated to issue notices of disruptive and bullying student behavior;

(p) identification of individuals who shall receive notices of disruptive and bullying student behavior;

(q) a requirement to provide for documentation of an alleged class B misdemeanor or a nonperson class A misdemeanor prior to referral of students with an alleged class B misdemeanor or a nonperson class A misdemeanor to juvenile court;

(r) strategies to provide for necessary adult supervision;

(s) a requirement that policies be clearly written and consistently enforced;

(t) notice to employees that violation of this rule may result in employee discipline or action;

(u) gang prevention and intervention policies in accordance with Subsection 53E-3-509(1);

(v) provisions that account for an individual LEA's or school's unique needs or circumstances, including:

- (i) the role of law enforcement;
- (ii) emergency medical services; and
- (iii) a provision for publication of notice to parents and school employees of policies by reasonable means; and

(iv) a plan for referral for a student with a qualifying office to alternative school-related interventions, including:

(A) a mobile crisis outreach team, as defined in Section 78A-6-105;

(B) a receiving center operated by the Division of Juvenile Justice Services in accordance with Section 62A-7-104;

(C) a youth court; or

(w) a comparable restorative justice program.

(4) A plan described in Subsection (1) may include:

- (a) the provisions of Subsection 53E-3-509(2); and
- (b) a plan for training administrators and school resource officers in accordance with Section 53G-8-702.

R277-609-5. Physical Restraint and Seclusionary Time Out.

(1) When used consistently with an LEA plan under Subsection R277-609-4(1):

(a) a physical restraint must be immediately terminated when:

- (i) a student is no longer an immediate danger to self or others; or
- (ii) a student is in severe distress; and
- (b) the use of physical restraint shall be for the minimum time necessary to ensure safety and a release criteria, as outlined in LEA policies, must be implemented.

(2) If a public education employee physically restrains a student, the school or the public education employee shall provide notice as soon as reasonably possible and before the student leaves the school as described in Section R277-609-10 to the student's parent.

(3) A public education employee may not use physical restraint on a student for more than the shortest of the following before stopping, releasing, and reassessing the intervention used:

(a) the amount of time described in the LEA's emergency intervention training program;

(b) 30 minutes; or

(c) when law enforcement arrives ~~[-or reasonable in extreme circumstances].~~

(4) A public education employee may not use physical restraint as a means of discipline or punishment.

(5) If a public education employee uses seclusionary time out, the public education employee shall:

(a) use the minimum time necessary to ensure safety;

(b) use release criteria as outlined in LEA policies;

(c) ensure that any door remains unlocked consistent with the fire and public safety requirements described in R392-200 and R710-4;

(d) maintain the student within line of sight of the public education employee;

(e) use the seclusionary time out consistent with the LEA's plan described in Section R277-609-4; and

(f) ensure that the enclosed area meets the fire and public safety requirements described in R392-200 and R710-4.

(6) If a student is placed in seclusionary time out, the school or the public education employee shall provide notice as soon as reasonably possible and before the student leaves the school to:

(a) the student's parent; and

(b) school administration.

(7) A public education employee may not place a student in a seclusionary time out for more than 30 minutes.

(8) In addition to the notice described in Subsection (7), if a public education employee places a student in seclusionary time out for more than fifteen minutes, the school or the public education employee shall immediately provide notice to:

(a) the student's parent or guardian; and

(b) school administration.

(9) Seclusionary time out may only be used for maintaining safety.

(10) A public education employee may not use seclusionary time out as a means of discipline or punishment.

R277-609-6. Implementation.

(1) An LEA shall implement strategies and policies consistent with the LEA's plan required in Section R277-609-4.

(2) An LEA shall develop, use and monitor a continuum of intervention strategies to assist students, including students whose behavior in school falls repeatedly short of reasonable expectations, by teaching student behavior expectations, reinforcing student behavior expectations, re-teaching behavior expectations, followed by effective, evidence-based interventions matched to student needs prior to suspension or court referral.

(3) An LEA shall implement positive behavior interventions, supports, and restorative practices as part of the LEA's continuum of behavior interventions strategies.

R277-609-7. LEA Emergency Safety Intervention (ESI) Committees.

(1) An LEA shall establish an Emergency Safety Intervention (ESI) Committee.

(2) An LEA's ESI Committee:

(a) shall include:

(i) at least two administrators;

(ii) at least one parent or guardian of a student enrolled in the LEA, appointed by the LEA; and

(iii) at least two certified educational professionals with behavior training and knowledge in both state rules and LEA discipline policies;

(b) shall meet often enough to monitor the use of emergency safety intervention in the LEA;

(c) shall determine and recommend professional development needs; and

(d) shall develop policies for local dispute resolution processes to address concerns regarding disciplinary actions; and

(e) shall ensure that each emergency incident where a school employee uses an emergency safety intervention is documented in the LEA's student information system and reported to the Superintendent through the Board's UTREx system.

R277-609-8. LEA Reporting.

(1) An LEA shall have procedures for the collection, maintenance, and periodic review of documentation or records of the use of emergency safety interventions at schools within the LEA.

(2) The Superintendent shall define the procedures for the collection, maintenance, and review of records described in Subsection (1).

(3) An LEA shall provide documentation of any school, program or LEA's use of emergency safety interventions to the Superintendent annually.

(4)(a) An LEA shall submit all required UTREx discipline data and incident or infraction data elements, and suspensions to the Superintendent no later than June 30 of each year.

(b) Beginning in the 2018-19 school year, an LEA shall submit all required UTREx discipline data and incident or infraction data elements as part of the LEA's daily UTREx submission.

R277-609-9. Special Education Exception(s) to this Rule.

(1) An LEA shall have in place, as part of its LEA special education policies, procedures, or practices, criteria and steps for using emergency safety interventions consistent with state and federal law.

(2) The Superintendent shall periodically review:

(a) all LEA special education behavior intervention, procedures, and manuals; and

(b) emergency safety intervention data as related to IDEA eligible students in accordance with Utah's Program Improvement and Planning System.

R277-609-10. Parent Notification and Court Referral.

(1) LEA policies shall provide procedures for qualifying minors and their parents to participate in decisions regarding consequences for disruptive student behavior.

(2) An LEA shall establish policies that:

(a) provide notice to parents and information about resources available to assist a parent in resolving the parent's school-age minors' disruptive behavior;

(b) provide for notices of disruptive behavior to be issued by schools to qualifying minors and parents consistent with:

(i) numbers of disruptions, suspensions, and timelines in accordance with Section 53G-8-210;

(ii) school resources available;

(iii) cooperation from the appropriate juvenile court in accessing student school records, including:

(A) attendance;

(B) grades;

(C) behavioral reports; and

(D) other available student school data; and

NOTICES OF PROPOSED RULES

(iv) provide due process procedures for minors and parents to contest allegations and citations of disruptive student behavior.

(3)(a) When an emergency safety intervention is used to protect a student or others from harm, a school shall:

(i) provide notice to the student's parent as soon as reasonably possibly and before the student leaves the school;

(ii) provide notice to school administration; and

(iii) provide documentation of the emergency safety intervention to the LEA's ESI Committee described in R277-609-7.

(b) In addition to the notice described in Subsection (3)(a), if the use of an emergency safety intervention occurs for more than fifteen minutes, the school shall immediately provide a second notification to:

(i) the student's parent or guardian; and

(ii) school administration.

(d) A notice described in Subsection (3)(a) shall be documented within student information systems (SIS) records.

(4)(a) A school shall provide a parent or guardian with a copy of any notes or additional documentation taken during the use of the emergency safety intervention upon request of the parent or guardian.

(b) Within 24 hours of the school using an emergency safety intervention with a student, a school shall provide notice to a parent or guardian that the parent or guardian may request a copy of any notes or additional documentation taken during the use of the emergency safety intervention.

(c) A parent or guardian may request a time to meet with school staff and administration to discuss the use of an emergency safety intervention.

R277-609-11. Model Policies.

(1) The Superintendent shall develop, review regularly, and provide to LEA boards model policies to address disruptive student behavior and appropriate consequences.

(2) The Superintendent shall provide technical assistance to LEAs in developing and implementing policies and training employees in the appropriate use of physical force and emergency safety interventions to the extent of resources available.

R277-609-12. LEA Compliance.

If an LEA fails to comply with this rule, the Superintendent may withhold funds in accordance with Rule R277-114 or impose any other sanction authorized by law.

KEY: disciplinary actions, disruptive students, emergency safety interventions

Date of Enactment or Last Substantive Amendment: [~~January 22,~~ 2020

Notice of Continuation: November 14, 2019

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53E-3-501(1)(b)(v); 53E-3-509; 53G-8-202; 53G-8-702, 53G-8-302

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-615	Filing No. 52862

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	

Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
R277-615. Standards and Procedures for Student Searches

3. Purpose of the new rule or reason for the change:
Rule R277-615 includes amendments due to H.B. 58, passed in the 2020 General Session.

4. Summary of the new rule or change:
The rule amendments include updated defined terms, including the term electronic cigarette products.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. H.B. 58 (2020) defines and regulates the use of electronic cigarette products in schools. The amendments in this rule change are due to requirements in this legislation.

B) Local governments:
This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. H.B. 58 (2020) defines and regulates the use of electronic cigarette products in schools. The amendments in this rule change are due to requirements in this legislation.

C) Small businesses ("small business" means a business employing 1-49 persons):
--

This rule change is not expected to have independent fiscal impacts on small businesses' revenues or expenditures. H.B. 58 (2020) defines and regulates the use of electronic cigarette products in schools. The amendments in this rule change are due to requirements in this legislation.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. H.B. 58 (2020) defines and regulates the use of electronic cigarette products in schools. The amendments in this rule change are due to requirements in this legislation.

F) Compliance costs for affected persons:

There are no independent compliance costs for affected persons. H.B. 58 (2020) defines and regulates the use of electronic cigarette products in schools. The amendments in this rule change are due to requirements in this legislation.

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Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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

H) Department head approval of regulatory impact analysis:

The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

B) Name and title of department head commenting on the fiscal impacts:

Sydnee Dickson, State Superintendent

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Article X, Section 3	Section 53G-8-509	Subsection 53E-3-401(4)
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	07/31/2020
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10. This rule change MAY become effective on:	08/07/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	06/15/2020
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R277. Education, Administration.

R277-615. Standards and Procedures for Student Searches.

R277-615-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision of public education in the Board;
 - (b) Section 53G-8-509, which directs the Board and LEAs to adopt rules to protect students against unreasonable and excessive intrusion of personal rights; and
 - (c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
- (2) The purpose of this rule is to direct LEAs to adopt policies to protect student rights with procedures and provisions that balance students' rights and privacy with the responsibility of school officials for the safety and protection of students and adults while on school property or at school-sponsored events.

R277-615-2. Definitions.

- (1) "Controlled substance" has the same meaning as provided in Subsection 58-37-2(1)(f).
- (2)(a) "Electronic cigarette" means the same as that term is defined in Section 76-10-101.
 - ~~(i) an electronic device used to deliver or capable of delivering vapor containing nicotine or another substance to an individual's respiratory system;~~
 - ~~(ii) a component of the device described in Subsection (2)(a)(i); or~~

~~(iii) an accessory sold in the same package as the device described in Subsection (2)(a)(i).~~

~~(b) "Electronic cigarette" includes an e-cigarette as that term is defined in Section 26-38-2.]~~

(3) "Electronic cigarette product" means ~~[an electronic cigarette, an electronic cigarette substance, or a prefilled electronic cigarette]~~ the same as that term is defined in Section 76-10-101.

(4) "Electronic cigarette substance" means the same as that term is defined in Section 76-10-101. ~~[any substance, including liquid containing nicotine, used or intended for use in an electronic cigarette.~~

~~5(a) "Law enforcement authorities" means officers working under the direct supervision and in the employment of police or law enforcement, as opposed to under the supervision of an LEA.]~~

~~(b)5) Law enforcement authorities have received police officer training and are acting in that capacity.~~

(6) "LEA," for purposes of this rule, includes the Utah Schools for the Deaf and the Blind.

(7) "Weapon" means any item capable of causing death or serious bodily injury or a facsimile or representation of the item.

R277-615-3. Superintendent Responsibilities.

- (1) The Superintendent shall provide consistent definitions for LEAs to include in search and seizure policies.
- (2) The Superintendent shall develop a model search and seizure policy as guidance for LEAs.
- (3) The Superintendent shall require an assurance from LEAs in the Utah Consolidated Report regarding the student search policy required under Section 53G-8-509.

R277-615-4. LEA Responsibilities.

- (1) An LEA shall update the LEA's policy for searching students for controlled substances and weapons to include provisions related to searching students for electronic cigarette products.
- (2) An LEA shall include appropriate interested parties in the development of student search policies, including:
 - (a) parents;
 - (b) school employees; and
 - (c) licensed school employees.
- (3) An LEA policy described in Subsection (1) shall ensure protection of individual student rights against excessive and unreasonable intrusion.
- (4) An LEA shall make policies available electronically and in printed form to parents and students upon enrollment.
- (5) An LEA shall provide adequate training to appropriate classes of employees for fair and consistent implementation of student search policies.

KEY: students, searches

Date of Enactment or Last Substantive Amendment: ~~January 9, 2020~~

Notice of Continuation: March 15, 2017

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53G-8-509; 53E-3-401(4)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R277-625	Filing No. 52873

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R277-625. Mental Health Screener
3. Purpose of the new rule or reason for the change:
This rule is being created due to H.B. 323, passed in the 2020 General Session.
4. Summary of the new rule or change:
The rule creates a process for a local education agency (LEA) to seek approval for administering a mental health screening tool to students. The rule also creates a process for an LEA to receive reimbursement for a qualifying parent to receive mental health treatment for the parent's student based on the results of the mental health screening. The rule also clarifies which parents constitute a qualifying parent and allows and LEA to seek funding for procuring a mental health screening tool.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. The rule is being created due to H.B. 323 (2020).
B) Local governments:
This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. The rule is being created due to H.B. 323 (2020).
C) Small businesses ("small business" means a business employing 1-49 persons):

This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. The rule is being created due to H.B. 323 (2020).

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industrial Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. The rule is being created due to H.B. 323 (2020).

F) Compliance costs for affected persons:

There are no independent compliance costs for affected persons. The rule is being created due to H.B. 323 (2020).

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0

NOTICES OF PROPOSED RULES

Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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

H) Department head approval of regulatory impact analysis:

The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

B) Name and title of department head commenting on the fiscal impacts:

Sydnee Dickson, State Superintendent

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Article X, Section 3	Section 53E-3-401(4)	Section 53F-2-522
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the

agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/31/2020

10. This rule change MAY become effective on: 08/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	06/15/2020
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R277. Education, Administration.

R277-625. Mental Health Screening Program.

R277-625-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Section 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law;

(c) Section 53F-2-522 which directs the board to make rules regarding the selection of mental health screening programs and financial aid for qualifying parents.

(2) The purpose of this rule is to:

(a) provide the approval process for mental health screening programs chosen by an LEA; and

(b) establish the approval and distribution of funds for a qualifying parent to receive financial assistance for related mental health services.

R277-625-2. Definitions.

(1) "Division of Substance Abuse and Mental Health" or "DSAMH" means the same as the term is defined in Subsection 62A-15-103.

(2) "Mental health screening program" or "screening program" means the same as the term is defined in Subsection 53F-2-522(1)(e).

(3) "Qualifies for financial assistance" means a qualifying parent that has a student receiving educational services through an LEA who:

(a) receives free or reduced lunch; or

(b) as recommended by the local mental health authority, demonstrates need including being:

(i) uninsured;

(ii) underinsured;

(iii) ineligible for Medicaid to cover part or all of any recommended mental health treatments; or

(iv) demonstrates a high need for interventions based upon results of the LEA's mental health screening program.

(4) "Qualifying parent" means the same as the term is defined in Subsection 53F-2-522(1)(d).

(5) "Relevant services" means mental health services provided to a student that are directly related to mental health needs identified by a student's mental health screening.

R277-625-3. Approval of Mental Health Screening Programs.

(1)(a) The Superintendent, in consultation with DSAMH, shall publish annually a list of pre-approved mental health screening programs to the Board's website.

(b) the published pre-approved list shall include:

(i) the name or brand of the mental health screening program including a link to the screening program's website;

(ii) the recommended ages for the mental health screening program;

(iii) any limitations of the mental health screening program including the typical level of false positives;

(iv) the mental health conditions the mental health screening program can detect; and

(v) the scientific data or research used to verify a screening program is evidence-based.

(2) The Board shall approve:

(a) the pre-approved mental health screening program list; and

(b) the mental health conditions for which a screening program can be used.

(3) All pre-approved mental health screening programs shall comply with the requirements as described in Title 53E, Chapter 9, Student Privacy and Data Protection, and the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g.

(4) Except as provided for in Subsection (4)(c) and (d), an LEA shall notify the Superintendent by May 1:

(a) if the LEA plans to:

(i) use a mental health screening program from the pre-approved list; or

(ii) apply to the Superintendent for approval of a mental health screening program that is not on the pre-approved list;

(b) whether an LEA elects to participate in providing a qualifying parent with financial assistance;

(c) In accordance with Subsections (4)(a) and (b) and for the 2020-2021 school year, an LEA shall notify the Superintendent by August 15; and

(d) An LEA is not required to comply with Subsection (4) if the LEA chooses not to offer a mental health screening program.

(5) If the LEA chooses to apply for use of a mental health screening program that is not on the pre-approved list, the LEA shall submit an application in a form prescribed by the Superintendent specifying:

(a) the mental health screening program proposed for use by the LEA;

(b) the reason for choosing the mental health screening program;

(c) the approved mental health conditions the mental health screening program measures;

(d) how the mental health screening program complies with all state and federal data privacy laws; and

(e) the scientific data or research demonstrating the mental health screening program is evidence based and meets industry standards;

(f) why the mental health screening program is age appropriate for each grade the screening program is administered; and

(g) why the mental health screening program is an effective tool for identifying whether a student has a mental health condition that requires intervention.

(6) The Superintendent shall review the application in consultation with DSAMH and approve or deny the application within 30 days of receipt.

(7) If the application is approved, the Superintendent shall submit the approved application to the Board for final approval.

(8) Subject to legislative appropriation, the Superintendent shall provide annually a maximum reimbursement amount an LEA may receive for use of a mental health screening program.

(9) An LEA may request in writing a reimbursement from the Superintendent in an amount not to exceed the amount described in Subsection (8).

(10)(a) An LEA shall require relevant staff, who will be administering a mental health screening program, to attend an annual mental health screening program training provided by the Superintendent in collaboration with DSAMH;

(b) the training described in Subsection (10)(a) shall provide an LEA with information needed for appropriate parental consent including:

(i) consent shall be obtained;

(A) within 8 weeks prior to administration of the mental health screening program; and

(B) in accordance with Subsection 53E-9-203(4);

(ii) the consent form shall be provided separately from other consent forms given to a parent pursuant to other state or federal laws;

(iii) additional variables that might influence a screening program's results; and

(iv) a statement that:

(A) the mental health screener is optional;

(B) a screening program is not a diagnostic tool;

(C) a parent has the right to seek outside resources or opinions; and

(D) specifies which board approved mental health conditions the mental health screening program measures.

(11) An LEA may not administer a mental health screening program if the LEA has not attended the annual mental health screening program training described in Subsection (10).

(12) An LEA shall report annually to the Superintendent aggregate data regarding the types of LEA provided mental health interventions, referrals, or other actions taken based on screening program results.

R277-625-4. Data Privacy.

(1) An LEA shall ensure all data collected or stored by a mental health screening program complies with all state and federal data privacy laws and requirements, including those described in Subsection R277-625-3(3).

(2) An LEA shall provide a parent with a list of all data potentially collected by the mental health screening program prior to consenting to a student's mental health screening.

(3) An LEA shall provide the parent of a screened student with:

NOTICES OF PROPOSED RULES

- (a) results as described in Subsection 53F-2-522(4)(d);
- (b) applicable available resources; and
- (c) who has access to the screening program data
- (4) If an LEA has received parental consent, an LEA may share data collected from the mental health screening program with a school's multi-disciplinary team.

R277-625-5. Financial Assistance for a Qualifying Parent.

(1) An LEA that has elected to participate as described in Subsection R277-625-3(4)(b), may receive reimbursement for relevant services obtained by a qualifying parent that qualifies for financial assistance.

(2) An LEA may not receive reimbursement for a qualifying parent if:

(a) the qualifying parent's student has begun to receive relevant services outside of the school setting prior to seeking reimbursement;

(b) the LEA can provide the relevant services, including relevant services provided by a third party through a contract with the LEA;

(c) except for as provided in Subsection (d), the qualifying parent has received reimbursement for the same relevant services within one year from the date the relevant services began for the student; or

(d) an LEA may provide reimbursement to a qualifying parent for the same relevant services within one year from the date relevant services began for the student if:

(i) the LEA has no other qualifying parents seeking reimbursement by April 1 and;

(ii) has reimbursement funds remaining.

(3) An LEA may not receive reimbursements that exceed the LEA's award amount as described in Subsection (4).

(4) An LEA that has elected to participate as described in Subsection R277-625-3(4)(b), shall receive a total award amount based on need as determined by the Superintendent.

(5) The Superintendent shall determine a participating LEA's need by considering the LEA's ability to support and provide mental health services for a student including:

(a) the availability of mental health services within the LEA;

(b) the availability of mental health services within the LEA's surrounding community;

(c) the overall accessibility of mental health services for students within the LEA;

(d) the current student demand for mental health services within an LEA; and

(e) capacity of the LEA to meet existing and future student demands for mental health services.

KEY: mental health screening program, mental health, prevention

Date of Enactment or Last Substantive Amendment: 2020

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53E-3-401(4); 53F-2-522

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-910	Filing No. 52864

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R277-910. Underage Drinking Prevention Program
3. Purpose of the new rule or reason for the change:
Rule R277-910 is amended due to H.B. 58, passed in the 2020 General Session.
4. Summary of the new rule or change:
The amendments include renaming the Underage Drinking Prevention Program to the Underage Drinking and Substance Abuse Prevention Program and adds a requirement to include instruction on the risks of underage usage of electronic cigarette products. It also adds a requirement for a local education agency (LEA) to offer a school-based prevention program for students in grade 4 or 5.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. H.B. 58 (2020) defines and regulates the use of electronic cigarette products in schools. The amendments in this rule change are due to requirements in this legislation.
B) Local governments:
This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. H.B. 58 (2020) defines and regulates the use of electronic cigarette products in schools. The amendments in this rule change are due to requirements in this legislation.

C) Small businesses ("small business" means a business employing 1-49 persons):

This rule change is not expected to have independent fiscal impact on small businesses' revenues or expenditures. H.B. 58 (2020) defines and regulates the use of electronic cigarette products in schools. The amendments in this rule change are due to requirements in this legislation.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. H.B. 58 (2020) defines and regulates the use of electronic cigarette products in schools. The amendments in this rule change are due to requirements in this legislation.

F) Compliance costs for affected persons:

There are no independent compliance costs for affected persons. H.B. 58 (2020) defines and regulates the use of electronic cigarette products in schools. The amendments in this rule change are due to requirements in this legislation.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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

H) Department head approval of regulatory impact analysis:

The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.

B) Name and title of department head commenting on the fiscal impacts:

Sydnee Dickson, State Superintendent

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Article X, Section 3	Subsection 53E-3-401(4)	Subsection 53G-10-406
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	07/31/2020
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10. This rule change MAY become effective on:	08/07/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	06/15/2020
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R277. Education, Administration.

R277-910. Underage Drinking and Substance Abuse Prevention Program.

R277-910-1. Authority and Purpose.

(1) This rule is authorized by:

(a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board;

(b) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and

(c) Subsection 53G-10-406 which directs the Board to establish rules regarding:

(i) a requirement that an LEA offer the Underage Drinking and Substance Abuse Prevention Program each school year to each student in grade 4 or 5, grade 7 or 8, and grade 9 or 10; and

(ii) the criteria for the board to use in selecting a provider for the Underage Drinking and Substance Abuse Prevention Program.

(2) The purpose of this rule is to establish the criteria for selecting a provider for the Underage Drinking and Substance Abuse Prevention Program and general requirements of an LEA when offering the program.

R277-910-2. Criteria for Selecting a Provider.

(1) The following criteria, along with the requirements found in 53G-10-406, shall be considered in selecting a provider for the Underage Drinking and Substance Abuse Prevention Program:

(a) a program that is evidence-based including peer reviewed journals, national registries, and research;

(b) a program that is focused on preventing underage consumption of alcohol and use of electronic cigarette products through a curriculum, course, or program that is taught through multiple days of instruction and not a one-time presentation.

(c) a program that is delivered in the classroom by the classroom teacher or other trained professional;

(d) a program that addresses behavioral risk factors associated with underage drinking and use of electronic cigarette products and integrates skills practice into the curriculum; and

(e) a program that aligns with the core standards of the Utah Public School system.

(2) The vendor of the Underage Drinking and Substance Abuse Prevention Program shall:

(i) a have prior experience in successfully reducing underage drinking and substance abuse; and

(ii) b be available for deployment beginning in the 2018-19 school year.

R277-910-3. Mandatory Offering of Underage Drinking and Substance Abuse Prevention Program.

(1) Except as provided in Subsection (3), an ~~an~~ LEA shall offer to each student in grades 4 or 5, grades 7 or 8, and grades 9 or 10, respectively, the Underage Drinking and Substance Abuse Prevention Program procured by the Board.

(2) An LEA shall offer the Underage Drinking and Substance Abuse Prevention Program to students[-];

(a) in grades 7 or 8 and grades 9 or 10; and

(b) for students in grades 4 or 5, beginning in the 2021-22 school year. ~~[of the grades in subsection (1) of this section beginning in the 2018-19 school year.]~~

R277-910-4. Reporting Requirements.

(1) An LEA shall report to the Superintendent annually regarding the general participation and deployment of the Underage Drinking and Substance Abuse Prevention Program.

(2) The report shall be made via the Annual Assurances Document described in R277-108 and shall include:

(a) if the Underage Drinking and Substance Abuse Prevention Program was offered to students each school year in grades 4 or 5, grades 7 or 8, and in grades 9 or 10;

(b) for grades 7 or 8 and grades 9 or 10 only, the name of the course where the Underage Drinking and Substance Abuse Prevention Program was offered including if it was offered as a stand-alone course; and

(c) if the instructor has attended the one time training[-; ~~including online state level training~~] for the Underage Drinking and Substance Abuse Prevention Program.

R277-910-5. LEA Positive Behaviors Plan Annual Report.

(1) An LEA governing Board shall submit an annual assurance to the Board as described in R277-108, confirming that each school under the governing Board's jurisdiction has an approved positive behavior plan as required in Subsection 53G-10-407(5)(b).

KEY: underage drinking prevention, substance abuse, alcohol, electronic cigarette products

Date of Enactment or Last Substantive Amendment: ~~[February 7, 2019]~~ **2020**

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; **53E-3-401(4); 53G-10-405; 53G-10-406**

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R277-924	Filing No. 52865

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7830	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
R277-924. Partnerships for Student Success Grant Program
3. Purpose of the new rule or reason for the change:
S.B. 137, passed in the 2020 General Session, requires the Utah State Board of Education to annually evaluate a partnership that receives a grant under the Partnerships for Student Success Program and prepare a written report of an evaluation and submit the report to the Education Interim Committee.
4. Summary of the new rule or change:
The rule is amended to clarify that the evaluation does not have to be performed by a third-party provider.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
This rule change is not expected to have independent fiscal impact on state government revenues or expenditures. S.B. 137 (2020) revised requirements for the Partnerships for Student Success Program. The amendments in this rule change are due to this legislation.
B) Local governments:
This rule change is not expected to have independent fiscal impact on local governments' revenues or expenditures. S.B. 137 (2020) revised requirements for

the Partnerships for Student Success Program. The amendments in this rule change are due to this legislation.

C) Small businesses ("small business" means a business employing 1-49 persons):

This rule change is not expected to have independent fiscal impacts on small business revenues or expenditures. S.B. 137 (2020) revised requirements for the Partnerships for Student Success Program. The amendments in this rule change are due to this legislation.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are no non-small businesses in the industry in question, Elementary and Secondary Schools (North American Industry Classification System (NAICS) 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This proposed rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

This rule change is not expected to have independent fiscal impact on revenues or expenditures for persons other than small businesses, businesses, or local government entities. S.B. 137 (2020) revised requirements for the Partnerships for Student Success Program. The amendments in this rule change are due to this legislation.

F) Compliance costs for affected persons:

There are no independent compliance costs for affected persons. S.B. 137 (2020) revised requirements for the Partnerships for Student Success Program. The amendments in this rule change are due to this legislation.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

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Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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
H) Department head approval of regulatory impact analysis:			
The State Superintendent, Sydnee Dickson, has reviewed and approved this fiscal analysis.			
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:			
There are no non-small businesses in the industry in question, Elementary and Secondary Schools (NAICS 611110). Because there are no non-small businesses, they do not account for any service delivery for Elementary and Secondary Schools. Therefore, non-small businesses are not expected to receive increased or decreased revenues per year. This rule change is not expected to have any fiscal impact on non-small businesses' revenues or expenditures because there are no applicable non-small businesses and it does not require any expenditures of, or generate revenue for non-small businesses. This rule change has no fiscal impact on local education agencies and will not have a fiscal impact on small businesses either.			
B) Name and title of department head commenting on the fiscal impacts:			
Sydnee Dickson, State Superintendent			

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state

and federal laws. State code or constitution citations (required):		
Article X, Section 3	Section 53F-5-406	Subsection 53E-3-401(4)

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/31/2020

10. This rule change MAY become effective on: 08/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	06/15/2020
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R277. Education, Administration.

R277-924. Partnerships for Student Success Grant Program.

R277-924-1. Authority and Purpose.

- (1) This rule is authorized by:
 - (a) Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; and
 - (b) Section 53F-5-406, which requires the Board to make rules to administer the Partnerships for Student Success Grant Program; and
 - (c) Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.
- (2) The purpose of this rule is to provide:
 - (a) criteria for evaluating grant applications; and
 - (b) procedures for:
 - (i) an eligible partnership to apply to the Board to receive grant money; and
 - (ii) the evaluation of an eligible partnership's use of grant money.

R277-924-2. Definitions.

- (1) "Eligible partnership" means the same as that term is defined in Section 53F-5-401.

(2) "Eligible school feeder pattern" means the same as that term is defined in Section 53F-5-401.

(3) "Grant program" means the Partnerships for Student Success Grant Program established in Section 53F-5-402.

(4) "Lead applicant" means an LEA or local nonprofit organization designated by an eligible partnership to act as the lead applicant for a grant described in Title 53F, Chapter 5, Part 4, Partnerships for Student Success Grant Program and this Rule.

R277-924-3. Grant Application.

(1) The Superintendent shall:

(a) develop a grant application that allows an eligible partnership, through the lead applicant, to apply to participate in the grant program; and

(b) make the grant application available on the Board's website.

(2) An eligible partnership may apply for a grant described in Section 53F-5-402 by submitting an application to the Superintendent:

(a) on or before September 1, 2016; or

(b) on or before the date published on the Board's website.

(3)(a) An eligible partnership or lead applicant may notify the Superintendent of the eligible partnership's intention to apply for a grant at any time.

(b) If an eligible partnership intends to be considered for a grant for the upcoming school year, the eligible partnership shall submit a letter of intent by the deadline established by the Superintendent and published on the Board's website.

(4) For each year the Superintendent is authorized to solicit grant applications, the Superintendent shall publish a timeline on the Board's website by March 1, including a date for the application release, and due dates for the LEA to submit required materials.

(5) The Superintendent shall evaluate each application using the criteria described in Section R277-924-4 to determine if the applying partnership is an eligible partnership.

(6) The Superintendent shall notify the lead applicant of successful receipt of a grant by July 1.

R277-924-4. Procedure and Criteria for Awarding a Grant.

(1) The Superintendent shall award grants to eligible partnerships based on the amount of funding available for the grant program.

(2) The Superintendent shall award the grant described in Subsection (1) to an eligible partnership based on the following criteria:

(a) the percentage of students who live in families with an income at or below 185% of the federal poverty level enrolled in schools within the eligible school feeder pattern;

(b) the comprehensive needs assessment of the eligible partnership, including the shared goals, outcomes and measurement practices based on the unique community needs and interests;

(c) the proposed program services to be implemented based on the comprehensive needs assessment described in Subsection (2)(b), including how the eligible partnership's plan aligns with:

(i) the five- and ten-year plan to address intergenerational poverty described in Section 35A-9-303; and

(ii) if the eligible partnership has a low performing school within the eligible partnership's school feeder pattern, the school turnaround plans of the low performing schools;

(d) how the eligible partnership will:

(i) improve educational outcomes for low income students through the formation of cross-sector partnerships; and

(ii) improve efforts focused on student success;

(e) the outcome-based measures selected by the eligible partnership, including the eligible partnership's plan to:

(i) objectively assess the success of the eligible partnership's program design plan; and

(ii) make changes to the eligible partnership's plan based on the assessment described in Subsection (2)(e)(i);

(f) the strength of the eligible partnership's commitment to:

(i) the establishment and maintenance of data systems that inform program decisions;

(ii) sharing of information and collaboration with third party evaluators; and

(iii) meeting annual reporting requirements;

(g) the eligible partnership's budget, including:

(i) identifying the estimated cost per student for the program;

(ii) an explanation for each proposed expenditure and how each expenditure aligns with the eligible partnership's proposed program; and

(iii) providing matching funds as required in Section 53F-5-403.

(3) Additional points will be awarded to an eligible partnership that:

(a) includes a low performing school as defined in Section 53E-5-301; or

(b) includes community and parent engagement as a part of the eligible partnership's plan.

(4) The Superintendent shall administer and oversee the evaluation of the program as provided in Section 53F-5-405.

KEY: Partnerships for Student Success, grant program[s], community, non-profit organizations

Date of Enactment or Last Substantive Amendment: ~~October 11, 2016~~ 2020

Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53F-5-406; 53E-3-401(4)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R307-101-2	Filing No. 52814

Agency Information

1. Department:	Environmental Quality
Agency:	Air Quality
Building:	Multi Agency State Office Building
Street address:	195 N 1950 W
City, state:	Salt Lake City, UT 84116
Mailing address:	PO BOX 144820
City, state, zip:	Salt Lake City, UT 84116-4820
Contact person(s):	
Name:	Phone: Email:

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Liam Thrailkill	801-536-4419	lthrailkill@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R307-101-2. Definitions
3. Purpose of the new rule or reason for the change:
The Division of Air Quality (DAQ) has submitted all Clean Air Act (CAA) requirements to the Environmental Protection Agency for the 2006 24-hr PM _{2.5} nonattainment areas to be redesignated to attainment. The maintenance areas must be defined so that the rules approved as part of the State Implementation Plan continue to apply throughout the maintenance period. Defining the maintenance areas in Rule R307-101 means that all Title R307 references to PM _{2.5} maintenance areas will apply to the new maintenance areas, which prevents backsliding under CAA Section 110(l).
4. Summary of the new rule or change:
This amendment to Rule R307-101 adds the PM _{2.5} Maintenance Area definitions to the Utah Air Quality Rules.
A public hearing is set for Monday, August 3, 2020. Further details may be found below. The hearing will be cancelled should no request for one be made by Friday, July 31, 2020, at 5:00 PM MDT. The final status of the public hearing will be posted on Friday, July 31, after 5:00 PM MDT. The status of the public hearing may be checked at the following website location under the corresponding rule.
https://deq.utah.gov/public-notice-archive/air-quality-rule-plan-changes-open-public-comment
Interested Persons can participate electronically, via the internet:
https://meetingsamer15.webex.com/meetingsamer15/j.php?MTID=m357b639a97d449b240dc3856771885 Meeting Number: 126 260 8137 Meeting password: g5cWszbBg36 (45297922 from phones and video systems) Join by Phone: 1-408-418-9288

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
There will be no change in costs for state government. The addition of maintenance area definitions allows the rules currently applicable to continue when the areas are redesignated from nonattainment to attainment.

B) Local governments:			
There will be no change in costs for local governments as the rule amendment is not applicable to local governments.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
There will be no change in costs for small businesses since the air quality rules currently apply to small businesses.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
There will be no change in costs for non-small businesses since the air quality rules currently apply to non-small businesses.			
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):			
There will be no change in costs for persons other than small business, non-small business, state, or local government entities.			
F) Compliance costs for affected persons:			
The compliance cost for affected persons will remain the same as the current cost associated with all existing air quality rules that the new definitions apply to.			
G) Regulatory Impact Summary Table (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 will be included in narratives above.)			
Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0

Local Governments	\$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

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved the fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

This rule amendment adds definitions so that air quality rules continue to apply when areas are redesignated from nonattainment to attainment, so there will be no fiscal impacts on businesses.

B) Name and title of department head commenting on the fiscal impacts:

L. Scott Baird, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Subsection		
19-2-104(1)(a)		

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 08/03/2020

B) A public hearing (optional) will be held:

On: **At:** **At:**

08/03/2020	10:00 AM MDT	https://meetingsamer15.webex.com/meetingsamer15/j.php?MTID=m357b639a97d449b240dc3856771885
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10. This rule change MAY become effective on: 09/03/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Bryce Bird, Director	Date:	05/18/2020
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R307. Environmental Quality, Air Quality.

R307-101. General Requirements.

R307-101-2. Definitions.

Except where specified in individual rules, definitions in Section R307-101-2 are applicable to all rules adopted by the Air Quality Board.

"Actual Emissions" means the actual rate of emissions of a pollutant from an emissions unit determined as follows:

(1) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two-year period which precedes the particular date and which is representative of normal source operations. The director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(2) The director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(3) For any emission unit, other than an electric utility steam generating unit specified in (4), which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(4) For an electric utility steam generating unit (other than a new unit or the replacement of an existing unit) actual emissions of the unit following the physical or operational change shall equal the representative actual annual emissions of the unit, provided the source owner or operator maintains and submits to the director, on an annual basis for a period of 5 years from the date the unit resumes regular operation, information demonstrating that the physical or operational change did not result in an emissions increase. A longer period, not to exceed 10 years, may be required by the director if the director determines such a period to be more representative of normal source post-change operations.

"Acute Hazardous Air Pollutant" means any noncarcinogenic hazardous air pollutant for which a threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental

NOTICES OF PROPOSED RULES

Industrial Hygienists (ACGIH) in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2009)."

"Air pollutant" means a substance that qualifies as an air pollutant as defined in 42 U.S.C. Sec. 7602.

"Air Pollutant Source" means private and public sources of emissions of air pollutants.

"Air Pollution" means the presence of an air pollutant in the ambient air in such quantities and duration and under conditions and circumstances, that are injurious to human health or welfare, animal or plant life, or property, or would unreasonably interfere with the enjoyment of life or use of property as determined by the standards, rules and regulations adopted by the Air Quality Board (Section 19-2-104).

"Allowable Emissions" means the emission rate of a source calculated using the maximum rated capacity of the source (unless the source is subject to enforceable limits which restrict the operating rate, or hours of operation, or both) and the emission limitation established pursuant to R307-401-8.

"Ambient Air" means that portion of the atmosphere, external to buildings, to which the general public has access. (Section 19-2-102(4)).

"Appropriate Authority" means the governing body of any city, town or county.

"Atmosphere" means the air that envelops or surrounds the earth and includes all space outside of buildings, stacks or exterior ducts.

"Authorized Local Authority" means a city, county, city-county or district health department; a city, county or combination fire department; or other local agency duly designated by appropriate authority, with approval of the state Department of Health; and other lawfully adopted ordinances, codes or regulations not in conflict therewith.

"Board" means Air Quality Board. See Section 19-2-102(8)(a).

"Breakdown" means any malfunction or procedural error, to include but not limited to any malfunction or procedural error during start-up and shutdown, which will result in the inoperability or sudden loss of performance of the control equipment or process equipment causing emissions in excess of those allowed by approval order or Title R307.

"BTU" means British Thermal Unit, the quantity of heat necessary to raise the temperature of one pound of water one degree Fahrenheit.

"Calibration Drift" means the change in the instrument meter readout over a stated period of time of normal continuous operation when the VOC concentration at the time of measurement is the same known upscale value.

"Carbon Adsorption System" means a device containing adsorbent material (e.g., activated carbon, aluminum, silica gel), an inlet and outlet for exhaust gases, and a system for the proper disposal or reuse of all VOC adsorbed.

"Carcinogenic Hazardous Air Pollutant" means any hazardous air pollutant that is classified as a known human carcinogen (A1) or suspected human carcinogen (A2) by the American Conference of Governmental Industrial Hygienists (ACGIH) in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2009)."

"Chargeable Pollutant" means any regulated air pollutant except the following:

(1) [C]carbon monoxide;

(2) [A]any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated or established by Title VI of the Act, Stratospheric Ozone Protection; or

(3) [A]any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under Section 112(r) of the Act, Prevention of Accidental Releases.

"Chronic Hazardous Air Pollutant" means any noncarcinogenic hazardous air pollutant for which a threshold limit value - time weighted average (TLV-TWA) having no threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists (ACGIH) in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2009)."

"Clean Air Act" means federal Clean Air Act as found in 42 U.S.C. Chapter 85.

"Clean Coal Technology" means any technology, including technologies applied at the precombustion, combustion, or post combustion stage, at a new or existing facility which will achieve significant reductions in air emissions of sulfur dioxide or oxides of nitrogen associated with the utilization of coal in the generation of electricity, or process steam which was not in widespread use as of November 15, 1990.

"Clean Coal Technology Demonstration Project" means a project using funds appropriated under the heading "Department of Energy-Clean Coal Technology," up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency. The Federal contribution for a qualifying project shall be at least 20 percent of the total cost of the demonstration project.

"Clearing Index" means an indicator of the predicted rate of clearance of ground level pollutants from a given area. This number is provided by the National Weather Service.

"Coating" means a material that can be applied to a substrate and which cures to form a continuous solid film for protective, decorative, or functional purposes. Such materials include, but are not limited to, paints, varnishes, sealants, adhesives, caulks, maskants, inks, and temporary protective coatings.

"Commence" as applied to construction of a major source or major modification means that the owner or operator has all necessary pre-construction approvals or permits and either has:

(1) [B]begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(2) [E]entered into binding agreements or contractual obligations, which cannot be canceled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

"Composite vapor pressure" means the sum of the partial pressures of the compounds defined as VOCs.

"Condensable PM2.5" means material that is vapor phase at stack conditions, but which condenses and/or reacts upon cooling and dilution in the ambient air to form solid or liquid particulate matter immediately after discharge from the stack.

"Compliance Schedule" means a schedule of events, by date, which will result in compliance with these regulations.

"Construction" means any physical change or change in the method of operation including fabrication, erection, installation, demolition, or modification of a source which would result in a change in actual emissions.

"Control Apparatus" means any device which prevents or controls the emission of any air pollutant directly or indirectly into the outdoor atmosphere.

"Department" means Utah State Department of Environmental Quality. See Section 19-1-103(1).

"Director" means the Director of the Division of Air Quality. See Section 19-1-103(1).

"Division" means the Division of Air Quality.

"Electric Utility Steam Generating Unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale. Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

"Emission" means the act of discharge into the atmosphere of an air pollutant or an effluent which contains or may contain an air pollutant; or the effluent so discharged into the atmosphere.

"Emissions Information" means, with reference to any source operation, equipment or control apparatus:

(1) [H]information necessary to determine the identity, amount, frequency, concentration, or other characteristics related to air quality of any air pollutant which has been emitted by the source operation, equipment, or control apparatus;

(2) [H]information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any air pollutant which, under an applicable standard or limitation, the source operation was authorized to emit (including, to the extent necessary for such purposes, a description of the manner or rate of operation of the source operation), or any combination of the foregoing; and

(3) A general description of the location and/or nature of the source operation to the extent necessary to identify the source operation and to distinguish it from other source operations (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source operation).

"Emission Limitation" means a requirement established by the Board, the director or the Administrator, EPA, which limits the quantity, rate or concentration of emission of air pollutants on a continuous emission reduction including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction (Section 302(k)).

"Emissions Unit" means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the Clean Air Act.

"Enforceable" means all limitations and conditions which are enforceable by the Administrator, including those requirements developed pursuant to 40 CFR Parts 60 and 61, requirements within the State Implementation Plan and R307, any permit requirements established pursuant to 40 CFR 52.21 or R307-401.

"EPA" means Environmental Protection Agency.

"EPA Method 9" means 40 CFR Part 60, Appendix A, Method 9, "Visual Determination of Opacity of Emissions from Stationary Sources," and Alternate 1, "Determination of the opacity of emissions from stationary sources remotely by LIDAR."

"Executive Director" means the Executive Director of the Utah Department of Environmental Quality. See Subsection 19-1-103(2).

"Existing Installation" means an installation, construction of which began prior to the effective date of any regulation having application to it.

"Filterable PM_{2.5}" means particles with an aerodynamic diameter equal to or less than 2.5 micrometers that are directly emitted by a source as a solid or liquid at stack or release conditions and can be captured on the filter of a stack test train.

"Fireplace" means all devices both masonry or factory built units (free standing fireplaces) with a hearth, fire chamber or similarly prepared device connected to a chimney which provides the operator with little control of combustion air, leaving its fire chamber fully or at least partially open to the room. Fireplaces include those devices with circulating systems, heat exchangers, or draft reducing doors with a net thermal efficiency of no greater than twenty percent and are used for aesthetic purposes.

"Fugitive Dust" means particulate, composed of soil and/or industrial particulates such as ash, coal, minerals, etc., which becomes airborne because of wind or mechanical disturbance of surfaces. Natural sources of dust and fugitive emissions are not fugitive dust within the meaning of this definition.

"Fugitive Emissions" means emissions from an installation or facility which are neither passed through an air cleaning device nor vented through a stack or could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Garbage" means all putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food, including wastes attendant thereto.

"Gasoline" means any petroleum distillate, used as a fuel for internal combustion engines, having a Reid vapor pressure of 4 pounds or greater.

"Hazardous Air Pollutant (HAP)" means any pollutant listed by the EPA as a hazardous air pollutant in conformance with Section 112(b) of the Clean Air Act. A list of these pollutants is available at the Division of Air Quality.

"Household Waste" means any solid or liquid material normally generated by the family in a residence in the course of ordinary day-to-day living, including but not limited to garbage, paper products, rags, leaves and garden trash.

"Incinerator" means a combustion apparatus designed for high temperature operation in which solid, semisolid, liquid, or gaseous combustible wastes are ignited and burned efficiently and from which the solid and gaseous residues contain little or no combustible material.

"Installation" means a discrete process with identifiable emissions which may be part of a larger industrial plant. Pollution equipment shall not be considered a separate installation or installations.

"LPG" means liquified petroleum gas such as propane or butane.

"Maintenance Area" means an area that is subject to the provisions of a maintenance plan that is included in the Utah state implementation plan, and that has been redesignated by EPA from nonattainment to attainment of any National Ambient Air Quality Standard.

(a) The following areas are considered maintenance areas for ozone:

- (i) Salt Lake County, effective August 18, 1997; and
- (ii) Davis County, effective August 18, 1997.

(b) The following areas are considered maintenance areas for carbon monoxide:

- (i) Salt Lake City, effective March 22, 1999;
- (ii) Ogden City, effective May 8, 2001; and
- (iii) Provo City, effective January 3, 2006.

(c) The following areas are considered maintenance areas for PM₁₀:

(i) Salt Lake County, effective on the date that EPA approves the maintenance plan that was adopted by the Board on December 2, 2015; ~~and~~

(ii) Utah County, effective on the date that EPA approves the maintenance plan that was adopted by the Board on December 2, 2015; and

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(iii) Ogden City, effective on the date that EPA approves the maintenance plan that was adopted by the Board on December 2, 2015.

(d) The following area is considered a maintenance area for sulfur dioxide: all of Salt Lake County and the eastern portion of Tooele County above 5600 feet, effective on the date that EPA approves the maintenance plan that was adopted by the Board on January 5, 2005.

(e) The following areas are considered maintenance areas for PM_{2.5}:

(i) the Salt Lake City, Utah 24-hr PM_{2.5} nonattainment area, as defined in the July 1, 2019 version of 40 CFR 81.345, effective on the date that EPA redesignates the area to attainment for PM_{2.5};

(ii) the Provo, Utah 24-hr PM_{2.5} nonattainment area, as defined in the July 1, 2019 version of 40 CFR 81.345, effective on the date that EPA redesignates the area to attainment for PM_{2.5}; and

(iii) the Utah portion of the Logan, Utah-Idaho 24-hr PM_{2.5} nonattainment area, as defined in the July 1, 2019 version of 40 CFR 81.345, effective on the date that EPA redesignates the area to attainment for PM_{2.5}.

"Major Modification" means any physical change in or change in the method of operation of a major source that would result in a significant net emissions increase of any pollutant. A net emissions increase that is significant for volatile organic compounds shall be considered significant for ozone. Within Salt Lake and Davis Counties or any nonattainment area for ozone, a net emissions increase that is significant for nitrogen oxides shall be considered significant for ozone. Within areas of nonattainment for PM10, a significant net emission increase for any PM10 precursor is also a significant net emission increase for PM10. A physical change or change in the method of operation shall not include:

- (1) routine maintenance, repair and replacement;
- (2) use of an alternative fuel or raw material by reason of an order under section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974, or by reason of a natural gas curtailment plan pursuant to the Federal Power Act;
- (3) use of an alternative fuel by reason of an order or rule under section 125 of the federal Clean Air Act;
- (4) use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;
- (5) use of an alternative fuel or raw material by a source:
 - (a) which the source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any enforceable permit condition; or
 - (b) which the source is otherwise approved to use;
- (6) an increase in the hours of operation or in the production rate unless such change would be prohibited under any enforceable permit condition;
- (7) any change in ownership at a source;
- (8) the addition, replacement or use of a pollution control project at an existing electric utility steam generating unit, unless the director determines that such addition, replacement, or use renders the unit less environmentally beneficial, or except:

(a) when the director has reason to believe that the pollution control project would result in a significant net increase in representative actual annual emissions of any criteria pollutant over levels used for that source in the most recent air quality impact analysis in the area conducted for the purpose of Title I of the Clean Air Act, if any, and

(b) the director determines that the increase will cause or contribute to a violation of any national ambient air quality standard or PSD increment, or visibility limitation.

(9) the installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

(a) the Utah State Implementation Plan; and

(b) other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

"Major Source" means, to the extent provided by the federal Clean Air Act as applicable to Title R307:

(1) any stationary source of air pollutants which emits, or has the potential to emit, one hundred tons per year or more of any pollutant subject to regulation under the Clean Air Act; or

(a) any source located in a nonattainment area for carbon monoxide which emits, or has the potential to emit, carbon monoxide in the amounts outlined in Section 187 of the federal Clean Air Act with respect to the severity of the nonattainment area as outlined in Section 187 of the federal Clean Air Act; or

(b) any source located in Salt Lake or Davis Counties or in a nonattainment area for ozone which emits, or has the potential to emit, VOC or nitrogen oxides in the amounts outlined in Section 182 of the federal Clean Air Act with respect to the severity of the nonattainment area as outlined in Section 182 of the federal Clean Air Act; or

(c) any source located in a nonattainment area for PM10 which emits, or has the potential to emit, PM10 or any PM10 precursor in the amounts outlined in Section 189 of the federal Clean Air Act with respect to the severity of the nonattainment area as outlined in Section 189 of the federal Clean Air Act.

(2) any physical change that would occur at a source not qualifying under subpart 1 as a major source, if the change would constitute a major source by itself;

(3) the fugitive emissions and fugitive dust of a stationary source shall not be included in determining for any of the purposes of these R307 rules whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

- (a) Coal cleaning plants (with thermal dryers);
- (b) Kraft pulp mills;
- (c) Portland cement plants;
- (d) Primary zinc smelters;
- (e) Iron and steel mills;
- (f) Primary aluminum or reduction plants;
- (g) Primary copper smelters;
- (h) Municipal incinerators capable of charging more than 250 tons of refuse per day;
 - (i) Hydrofluoric, sulfuric, or nitric acid plants;
 - (j) Petroleum refineries;
 - (k) Lime plants;
 - (l) Phosphate rock processing plants;
 - (m) Coke oven batteries;
 - (n) Sulfur recovery plants;
 - (o) Carbon black plants (furnace process);
 - (p) Primary lead smelters;
 - (q) Fuel conversion plants;
 - (r) Sintering plants;
 - (s) Secondary metal production plants;
 - (t) Chemical process plants;
 - (u) Fossil-fuel boilers (or combination thereof) totaling more than 250 million British Thermal Units per hour heat input;
 - (v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
 - (w) Taconite ore processing plants;
 - (x) Glass fiber processing plants;
 - (y) Charcoal production plants;
 - (z) Fossil fuel-fired steam electric plants of more than 250 million British Thermal Units per hour heat input; or

(aa) Any other stationary source category which, as of August 7, 1980, is being regulated under section 111 or 112 of the federal Clean Air Act.

"Modification" means any planned change in a source which results in a potential increase of emission.

"National Ambient Air Quality Standards (NAAQS)" means the allowable concentrations of air pollutants in the ambient air specified by the Federal Government (Title 40, Code of Federal Regulations, Part 50).

"Net Emissions Increase" means the amount by which the sum of the following exceeds zero:

(1) any increase in actual emissions from a particular physical change or change in method of operation at a source; and

(2) any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable. For purposes of determining a "net emissions increase":

(a) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date five years before construction on the particular change commences; and the date that the increase from the particular change occurs.

(b) An increase or decrease in actual emissions is creditable only if it has not been relied on in issuing a prior approval for the source which approval is in effect when the increase in actual emissions for the particular change occurs.

(c) An increase or decrease in actual emission of sulfur dioxide, nitrogen oxides or particulate matter which occurs before an applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available. With respect to particulate matter, only PM10 emissions will be used to evaluate this increase or decrease.

(d) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(e) A decrease in actual emissions is creditable only to the extent that:

(i) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

(ii) It is enforceable at and after the time that actual construction on the particular change begins; and

(iii) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(iv) It has not been relied on in issuing any permit under R307-401 nor has it been relied on in demonstrating attainment or reasonable further progress.

(f) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

"New Installation" means an installation, construction of which began after the effective date of any regulation having application to it.

"Nonattainment Area" means an area designated by the Environmental Protection Agency as nonattainment under Section 107, Clean Air Act for any National Ambient Air Quality Standard. The designations for Utah are listed in 40 CFR 81.345.

"Offset" means an amount of emission reduction, by a source, greater than the emission limitation imposed on such source by these regulations and/or the State Implementation Plan.

"Opacity" means the capacity to obstruct the transmission of light, expressed as percent.

"Open Burning" means any burning of combustible materials resulting in emission of products of combustion into ambient air without passage through a chimney or stack.

"Owner or Operator" means any person who owns, leases, controls, operates or supervises a facility, an emission source, or air pollution control equipment.

"PSD" Area means an area designated as attainment or unclassifiable under section 107(d)(1)(D) or (E) of the federal Clean Air Act.

"PM2.5" means particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by an EPA reference or equivalent method.

"PM2.5 Precursor" means any chemical compound or substance which, after it has been emitted into the atmosphere, undergoes chemical or physical changes that convert it into particulate matter, specifically PM2.5.

(1) Specifically, Sulfur dioxide, Nitrogen oxides, Volatile organic compounds and Ammonia are precursors to PM2.5 in any PM2.5 nonattainment area, except where the Administrator of the EPA has approved a demonstration satisfying 40 CFR 51.1006(a)(3) which has, for a particular PM2.5 nonattainment area, determined otherwise.

(2) The following subparagraphs denote specific nonattainment areas (as defined in the July 1, 2017 version of 40 CFR 81.345), within which certain pollutants identified in paragraph (1) are exempted from the definition of PM2.5 precursor for the purposes of 40 CFR 51.165

(a) In the Logan UT-ID PM2.5 nonattainment area - Ammonia is exempted.

"PM10" means particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers as measured by an EPA reference or equivalent method.

"PM10 Precursor" means any chemical compound or substance which, after it has been emitted into the atmosphere, undergoes chemical or physical changes that convert it into particulate matter, specifically PM10.

"Part 70 Source" means any source subject to the permitting requirements of R307-415.

"Person" means an individual, trust, firm, estate, company, corporation, partnership, association, state, state or federal agency or entity, municipality, commission, or political subdivision of a state. (Subsection 19-2-103(4)).

"Pollution Control Project" means any activity or project at an existing electric utility steam generating unit for purposes of reducing emissions from such unit. Such activities or projects are limited to:

(1) ~~[F]~~the installation of conventional or innovative pollution control technology, including but not limited to advanced flue gas desulfurization, sorbent injection for sulfur dioxide and nitrogen oxides controls and electrostatic precipitators;

(2) ~~[A]~~an activity or project to accommodate switching to a fuel which is less polluting than the fuel used prior to the activity or project, including, but not limited to natural gas or coal reburning, or the cofiring of natural gas and other fuels for the purpose of controlling emissions;

(3) ~~[A]~~a permanent clean coal technology demonstration project conducted under Title II, sec. 101(d) of the Further Continuing Appropriations Act of 1985 (sec. 5903(d) of title 42 of the United States Code), or subsequent appropriations, up to a total amount of \$2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations for the Environmental Protection Agency; or

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(4) [A] a permanent clean coal technology demonstration project that constitutes a repowering project.

"Potential to Emit" means the maximum capacity of a source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

"Primary PM_{2.5}" means the sum of filterable PM_{2.5} and condensable PM_{2.5}.

"Process Level" means the operation of a source, specific to the kind or type of fuel, input material, or mode of operation.

"Process Rate" means the quantity per unit of time of any raw material or process intermediate consumed, or product generated, through the use of any equipment, source operation, or control apparatus. For a stationary internal combustion unit or any other fuel burning equipment, this term may be expressed as the quantity of fuel burned per unit of time.

"Reactivation of a Very Clean Coal-Fired Electric Utility Steam Generating Unit" means any physical change or change in the method of operation associated with the commencement of commercial operations by a coal-fired utility unit after a period of discontinued operation where the unit:

(1) [H] has not been in operation for the two-year period prior to the enactment of the Clean Air Act Amendments of 1990, and the emissions from such unit continue to be carried in the emission inventory at the time of enactment;

(2) [W] was equipped prior to shutdown with a continuous system of emissions control that achieves a removal efficiency for sulfur dioxide of no less than 85 percent and a removal efficiency for particulates of no less than 98 percent;

(3) [H] is equipped with low-NO_x burners prior to the time of commencement of operations following reactivation; and

(4) [H] is otherwise in compliance with the requirements of the Clean Air Act.

"Reasonable Further Progress" means annual incremental reductions in emission of an air pollutant which are sufficient to provide for attainment of the NAAQS by the date identified in the State Implementation Plan.

"Refuse" means solid wastes, such as garbage and trash.

"Regulated air pollutant" means any of the following:

(a) [N] nitrogen oxides or any volatile organic compound;

(b) [A] any pollutant for which a national ambient air quality standard has been promulgated;

(c) [A] any pollutant that is subject to any standard promulgated under Section 111 of the Act, Standards of Performance for New Stationary Sources;

(d) [A] any Class I or II substance subject to a standard promulgated under or established by Title VI of the Act, Stratospheric Ozone Protection; or

(e) [A] any pollutant subject to a standard promulgated under Section 112, Hazardous Air Pollutants, or other requirements established under Section 112 of the Act, including Sections 112(g), (j), and (r) of the Act, including any of the following:

(i) Any pollutant subject to requirements under Section 112(j) of the Act, Equivalent Emission Limitation by Permit. If the Administrator fails to promulgate a standard by the date established pursuant to Section 112(e) of the Act, any pollutant for which a subject source would be major shall be considered to be regulated on the date

18 months after the applicable date established pursuant to Section 112(e) of the Act;

(ii) Any pollutant for which the requirements of Section 112(g)(2) of the Act (Construction, Reconstruction and Modification) have been met, but only with respect to the individual source subject to Section 112(g)(2) requirement.

"Repowering" means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion, integrated gasification combined cycle, magnetohydrodynamics, direct and indirect coal-fired turbines, integrated gasification fuel cells, or as determined by the Administrator, in consultation with the Secretary of Energy, a derivative of one or more of these technologies, and any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

(1) Repowering shall also include any oil and/or gas-fired unit which has been awarded clean coal technology demonstration funding as of January 1, 1991, by the Department of Energy.

(2) The director shall give expedited consideration to permit applications for any source that satisfies the requirements of this definition and is granted an extension under section 409 of the Clean Air Act.

"Representative Actual Annual Emissions" means the average rate, in tons per year, at which the source is projected to emit a pollutant for the two-year period after a physical change or change in the method of operation of unit, (or a different consecutive two-year period within 10 years after that change, where the director determines that such period is more representative of source operations), considering the effect any such change will have on increasing or decreasing the hourly emissions rate and on projected capacity utilization. In projecting future emissions the director shall:

(1) Consider all relevant information, including but not limited to, historical operational data, the company's own representations, filings with the State of Federal regulatory authorities, and compliance plans under title IV of the Clean Air Act; and

(2) Exclude, in calculating any increase in emissions that results from the particular physical change or change in the method of operation at an electric utility steam generating unit, that portion of the unit's emissions following the change that could have been accommodated during the representative baseline period and is attributable to an increase in projected capacity utilization at the unit that is unrelated to the particular change, including any increased utilization due to the rate of electricity demand growth for the utility system as a whole.

"Residence" means a dwelling in which people live, including all ancillary buildings.

"Residential Solid Fuel Burning" device means any residential burning device except a fireplace connected to a chimney that burns solid fuel and is capable of, and intended for use as a space heater, domestic water heater, or indoor cooking appliance, and has an air-to-fuel ratio less than 35-to-1 as determined by the test procedures prescribed in 40 CFR 60.534. It must also have a useable firebox volume of less than 6.10 cubic meters or 20 cubic feet, a minimum burn rate less than 5 kilograms per hour or 11 pounds per hour as determined by test procedures prescribed in 40 CFR 60.534, and weigh less than 800 kilograms or 362.9 pounds. Appliances that are described as prefabricated fireplaces and are designed to accommodate doors or other accessories that would create the air starved operating conditions of a residential solid fuel burning device shall be considered as such.

Fireplaces are not included in this definition for solid fuel burning devices.

"Road" means any public or private road.

"Salvage Operation" means any business, trade or industry engaged in whole or in part in salvaging or reclaiming any product or material, including but not limited to metals, chemicals, shipping containers or drums.

"Secondary Emissions" means emissions which would occur as a result of the construction or operation of a major source or major modification, but do not come from the major source or major modification itself.

Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the source or modification which causes the secondary emissions. Secondary emissions include emissions from any off-site support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

Fugitive emissions and fugitive dust from the source or modification are not considered secondary emissions.

"Secondary PM2.5" means particles that form or grow in mass through chemical reactions in the ambient air well after dilution and condensation have occurred. Secondary PM2.5 is usually formed at some distance downwind from the source.

"Significant" means:

(1) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

- Carbon monoxide: 100 ton per year (tpy);
- Nitrogen oxides: 40 tpy;
- Sulfur dioxide: 40 tpy;
- PM10: 15 tpy;
- PM2.5: 10 tpy;
- Particulate matter: 25 tpy;
- Ozone: 40 tpy of volatile organic compounds;
- Lead: 0.6 tpy.

"Solid Fuel" means wood, coal, and other similar organic material or combination of these materials.

"Solvent" means organic materials which are liquid at standard conditions (Standard Temperature and Pressure) and which are used as solvers, viscosity reducers, or cleaning agents.

"Source" means any structure, building, facility, or installation which emits or may emit any air pollutant subject to regulation under the Clean Air Act and which is located on one or more continuous or adjacent properties and which is under the control of the same person or persons under common control. A building, structure, facility, or installation means all of the pollutant-emitting activities which belong to the same industrial grouping. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e. which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (US Government Printing Office stock numbers 4101-0065 and 003-005-00176-0, respectively).

"Stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

"Standards of Performance for New Stationary Sources" means the Federally established requirements for performance and record keeping (Title 40 Code of Federal Regulations, Part 60).

"State" means Utah State.

"Temporary" means not more than 180 calendar days.

"Temporary Clean Coal Technology Demonstration Project" means a clean coal technology demonstration project that is operated for a period of 5 years or less, and which complies with the Utah State Implementation Plan and other requirements necessary to attain and maintain the national ambient air quality standards during the project and after it is terminated.

"Threshold Limit Value - Ceiling (TLV-C)" means the airborne concentration of a substance which may not be exceeded, as adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2009)."

"Threshold Limit Value - Time Weighted Average (TLV-TWA)" means the time-weighted airborne concentration of a substance adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices, (2009)."

"Total Suspended Particulate (TSP)" means minute separate particles of matter, collected by high volume sampler.

"Toxic Screening Level" means an ambient concentration of an air pollutant equal to a threshold limit value - ceiling (TLV-C) or threshold limit value -time weighted average (TLV-TWA) divided by a safety factor.

"Trash" means solids not considered to be highly flammable or explosive including, but not limited to clothing, rags, leather, plastic, rubber, floor coverings, excelsior, tree leaves, yard trimmings and other similar materials.

"VOC content" means the weight of VOC per volume of material and is calculated by the following equation in gram/liter (or alternately in pound/gallon, or pound/pound):

$$\text{Grams of VOC per Liter of Material} = \frac{W_s - W_w - W_{es}}{V_m}$$

Where:
 W_s = weight of volatile organic compounds
 W_w = weight of water
 W_{es} = weight of exempt compounds
 V_m = volume of material

"Volatile Organic Compound (VOC)" means VOC as defined in 40 CFR 51.100(s), effective as of the date referenced in R307-101-3, is hereby adopted and incorporated by reference.

"Waste" means all solid, liquid or gaseous material, including, but not limited to, garbage, trash, household refuse, construction or demolition debris, or other refuse including that resulting from the prosecution of any business, trade or industry.

"Zero Drift" means the change in the instrument meter readout over a stated period of time of normal continuous operation when the VOC concentration at the time of measurement is zero.

KEY: air pollution, definitions

Date of Enactment or Last Substantive Amendment: ~~February 7, 2019~~ **2020**

Notice of Continuation: November 13, 2018

Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(a)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R307-150	Filing No. 52815

Agency Information

1. Department:	Environmental Quality	
Agency:	Air Quality	
Building:	MASOB	
Street address:	195 Nh 1950 W	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 144820	
City, state, zip:	Salt Lake City, UT 84114-4820	
Contact person(s):		
Name:	Phone:	Email:
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R307-150. Emission Inventories
3. Purpose of the new rule or reason for the change:
<p>Division of Air Quality (DAQ) staff are proposing two amendments to Rule R307-150. The first amendment is to convert all summary only reports to detailed reports. There are certain facilities that currently submit only summary reports, while others submit detailed reports. Staff is proposing to make the amendment so all sources have detailed reports to submit.</p> <p>The second amendment is a new section which incorporates a requirement of the Clean Air Act for areas that have been designated as nonattainment for ozone. There are three areas that have been designated by the Environmental Protection Agency as marginal nonattainment for ozone and as such are required to have sources of oxides of nitrogen (NOx) and volatile organic compounds (VOCs) provide annual emission statements to the DAQ. This rule is required to be incorporated into the 's State Implementation Plan (SIP) within two years of designation and the first emission statements are due three years from designation. Three areas in Utah were designated nonattainment areas for ozone August 3, 2018.</p>
4. Summary of the new rule or change:
<p>For the first amendment, currently, sources subject to Section R307-150-7 submit facility totals for each pollutant (summary-only facilities), while all other sources submit specific information regarding each piece of permitted equipment (detailed facilities). Point Source staff would like to change this rule so that all sources are required to submit a detailed emissions inventory. Staff believe this will improve the reporting experience for the user, as well as the accuracy of the point source inventory. The point source inventory database, SLEIS, shows users how to calculate a detailed emissions inventory, whereas summary-only facilities have no prompts for completing</p>

calculations and usually have to create their own worksheets to determine totals. Once SLEIS has been tailored for each of a facility's emissions units, the following inventory cycles will be significantly easier because the next inventory report is generated from the previous one. Thus, some additional work in the short-term should provide a better experience in the long-term.

For the second amendment, the new Section R307-150-9 requires sources that have the potential to emit 25 tons of either NOx or VOCs provide an annual statement to the Division of Air Quality that documents the total actual emissions of NOx and VOCs for the previous calendar year. The statement had minimal requirements and needs to be certified as true and accurate.

A public hearing is set for Monday, August 3, 2020. Interested persons may participate electronically, via the internet:

<https://meetingsamer15.webex.com/meetingsamer15/j.php?MTID=m5f8ca399000263c519dfa067612596be>
 Meeting number: 126 911 2630
 Meeting Password: rrKpMJpB747 (77576572 from phones and video systems)
 Join by Phone: 1-408-418-9388

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
The DAQ does not anticipate any cost to the DAQ. The DAQ believes current staff can manage this change, therefore there is no need to hire additional personnel.
B) Local governments:
There are no anticipated costs or savings to local governments as these rule amendments are not applicable to them.
C) Small businesses ("small business" means a business employing 1-49 persons):
There are approximately 50 companies that already report triennial inventories that will now need to report annual summaries, which will take roughly 8 to 12 hours of work of either a staff member or a consultant to complete. It is estimated of those 50, approximately 25% are small business and the annual total cost to each source would be \$2,000, for a total cost of about \$30,000 for all small sources. As the triennial inventory is due in 2021, as well as the first emission statement, this cost would not occur until 2022.
For the amendment moving from summary-only reports to detailed inventory reports, it is possible that a small business would need to hire contract work to track and report the emissions, though staff expects most businesses to be able to absorb the workload with current personnel. The estimation is that, of the roughly 300

businesses going from summary to detail reports, 50 will hire outside work to complete the task, costing each small business \$2,000. The belief is that after the first year of the detailed reporting, most, if not all, of the small businesses will be able to complete the detailed report themselves without needing contracting work. Staff will be open to working with sources throughout the process to answer questions, as well. This cost will be incurred in 2021, when the first detailed report will be due.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

An estimated 75% of the 50 businesses who will now need to report annually are expected to be non-small businesses. As the business may be more complex, it is estimated that 12 to 20 hours of staff time or consultant work will be needed with an estimated total cost to all of \$50,000. Some non-small businesses may be able to absorb this additional reporting with current staff, whereas some may need to hire out the work. Due to the triennial inventory being due in 2021, this additional cost would not incur until 2022. Currently, there are an estimated three businesses in Tooele County that were not required to report an emission inventory under current rules that will now have to establish an emission inventory. This initial cost is estimated at \$8,000 for all three combined. Another \$1,500 each per year is estimated to report the inventories. The cost to these non-small businesses will be incurred in 2021.

For the amendment of moving from summary only to a detailed inventory report, staff expects businesses this large to either already have personnel tracking these emissions or be able to absorb the workload of tracking and reporting with current personnel.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

These rule amendments are not directly applicable to persons other than small businesses, non-small businesses, state, or local government entities.

F) Compliance costs for affected persons:

Should any business fail to submit their emissions inventory report by the due date, compliance action may be taken.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2021	FY2022
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$100,000	\$30,000	\$50,000
Non-Small Businesses	\$8,000	\$54,500	\$54,500
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$108,000	\$84,500	\$104,500
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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
H) Department head approval of regulatory impact analysis:			
The Executive Director of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.			
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:			
The amendments to this rule will result in fiscal costs for both small and non-small businesses. The plan is for the DAQ to have staff work with the businesses in every way possible to help limit and, when possible, eliminate these costs by assisting in the completion of their emission inventories. The heightened frequency of inventory reporting may cost businesses in the short-run to hire outside consulting, but the objective is to assist all businesses so they may be able to handle these additional reporting requirements with their current staff in the future.			
B) Name and title of department head commenting on the fiscal impacts:			
L. Scott Baird, Executive Director			

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Subsection 19-2-104(1)(c)		
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:		08/03/2020
B) A public hearing (optional) will be held:		
On:	At:	At:
08/03/2020	09:00 AM MDT	https://meetingsamer15.webex.com/meetingsamer15/j.php?MTID=m5f8ca39900263c519dfa067612596be

10. This rule change MAY become effective on: 09/03/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Bryce Bird, Director	Date:	05/18/2020
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R307. Environmental Quality, Air Quality.

R307-150. Emission Inventories.

R307-150-1. Purpose and General Requirements.

(1) The purpose of Rule R307-150 is:

- (a) to establish by rule the time frame, pollutants, and information that sources must include in inventory submittals; and
- (b) to establish consistent reporting requirements for stationary sources in Utah to determine whether sulfur dioxide emissions remain below the sulfur dioxide milestones established in the State Implementation Plan for Regional Haze, section XX.E.1.a, incorporated by reference in Section R307-110-28.

(2) The requirements of Rule R307-150 replace any annual inventory reporting requirements in approval orders or operating permits issued prior to December 4, 2003.

(3) Emission inventories shall be submitted on or before [ninety days following the effective date of this rule and thereafter on or before] April 15 of each year following the calendar year for which an inventory is required. The inventory shall be submitted in a format specified by the Division of Air Quality following consultation with each source.

(4) The executive secretary may require at any time a full or partial year inventory upon reasonable notice to affected sources when it is determined that the inventory is necessary to develop a state implementation plan, to assess whether there is a threat to public health or safety or the environment, or to determine whether the source is in compliance with Title R307.

(5) Recordkeeping Requirements.

(a) Each owner or operator of a stationary source subject to this rule shall maintain a copy of the emission inventory submitted to the Division of Air Quality and records indicating how the information submitted in the inventory was determined, including any calculations, data, measurements, and estimates used. The records under Section R307-150-4 shall be kept for ten years. Other records shall be kept for a period of at least five years from the due date of each inventory.

(b) The owner or operator of the stationary source shall make these records available for inspection by any representative of the Division of Air Quality during normal business hours.

R307-150-2. Definitions.

The following additional definitions apply to Rule R307-150,[-] and all references to the "Threshold Limit Values for chemical Substances and Physical Agents and Biological Exposure Indices" adopted by the American Conference of Governmental Industrial Hygienists refers to the 2003 version, which is hereby incorporated by reference.

"Acute pollutant" means any noncarcinogenic air pollutant for which a threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices," 2003 edition.

"Carcinogenic pollutant" means any air pollutant that is classified as a known human carcinogen (A1) or suspected human carcinogen (A2) by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices," 2003 edition.

"Chronic Pollutant" means any noncarcinogenic air pollutant for which a threshold limit value - time weighted average (TLV-TWA) having no threshold limit value - ceiling (TLV-C) has been adopted by the American Conference of Governmental Industrial Hygienists in its "Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices," 2003 edition.

"Dioxins" and "Furans" mean total tetra- through octachlorinated dibenzo-p-dioxins and dibenzofurans.

"Emissions unit" means emissions unit as defined in Section R307-415-3.

"Large Major Source" means a major source that emits or has the potential to emit 2500 tons or more per year of oxides of sulfur, oxides of nitrogen, or carbon monoxide, or that emits or has the potential to emit 250 tons or more per year of PM₁₀, PM_{2.5}, volatile organic compounds, or ammonia.

"Lead" means elemental lead and the portion of its compounds measured as elemental lead.

"Major Source" means major source as defined in Section R307-415-3.

R307-150-3. Applicability.

(1) Section R307-150-4 applies to ~~all~~ stationary sources with actual emissions of 100 tons or more per year of sulfur dioxide in calendar year 2000 or any subsequent year unless exempted in Subsection R307-150-3(1)(a). Sources subject to Subsection R307-150-4 may be subject to other sections of Rule R307-150.

(a) A stationary source that meets the requirements of Subsection R307-150-3(1) that has permanently ceased operation is exempt from the requirements of Section R307-150-4 for ~~all~~ the years during which the source did not operate at any time during the year.

(b) Notwithstanding Subsection R307-150-3(1)(a), beginning with 2016 emissions, the Division of Air Quality will include emissions of 8,005 tons per year ~~per year~~ of sulfur dioxide for the Carbon Power Plant in the annual regional sulfur dioxide milestone report required as part of the Regional Haze State Implementation Plan.

(c) Except as provided in Subsection R307-150-3(1)(a), any source that meets the criteria of Subsection R307-150-3(1) and that emits less than 100 tons per year of sulfur dioxide in any subsequent year shall remain subject to the requirements of Section R307-150-4 until 2018 or until the first control period under the Western Backstop Sulfur Dioxide Trading Program as established in Subsection R307-250-12(1)(a), whichever is earlier.

(2) Section R307-150-5 applies to large major sources.

(3) Section R307-150-6 applies to:

(a) each major source that is not a large major source;

(b) each source with the potential to emit 5 tons or more per year of lead; ~~and~~

(c) each source not included in Subsections R307-150-3(2), R307-150-3(3)(a), or R307-150-3(3)(b) that is located in Davis, Salt Lake, Utah, or Weber Counties and that has the potential to emit 25 tons or more per year of any combination of oxides of nitrogen, oxides of sulfur and PM₁₀, or the potential to emit 10 tons or more per year of volatile organic compounds; and ~~and~~

(d) each Part 70 source not included in Subsections R307-150-3(2), R307-150-3(3)(a), R307-150-3(3)(b), or R307-150-3(3)(c).

~~(4) R307-150-7 applies to Part 70 sources not included in R307-150-3(2) or R307-150-3(3).~~

(4~~5~~) Section R307-150-8~~9~~ applies to sources with Standard Industrial Classification codes in the major group 13 that have uncontrolled actual emissions greater than one ton per year for a single pollutant of PM₁₀, PM_{2.5}, oxides of nitrogen, oxides of sulfur, carbon monoxide or volatile organic compounds. These sources include, but are not limited to, industries involved in oil and natural gas exploration, production, and transmission operations; well production facilities; natural gas compressor stations; and natural gas processing plants and commercial oil and gas disposal wells, and ponds.

(a) Sources that require inventory submittals under Subsections R307-150-3(1) through R307-150-3~~(4)~~3 are excluded from the requirements of Section R307-150-8~~9~~.

(5) Section R307-150-9 applies to stationary sources located in a designated ozone nonattainment area that have the potential to emit oxides of nitrogen or volatile organic compounds greater than 25 tons per year.

R307-150-4. Sulfur Dioxide Milestone Inventory Requirements.

(1) Annual Sulfur Dioxide Emission Report.

(a) Sources identified in Subsection R307-150-3(1) shall submit an annual inventory of sulfur dioxide emissions beginning with

calendar year 2003 for ~~all~~ emissions units including fugitive emissions.

(b) The inventory shall include the rate and period of emissions, excess or breakdown emissions, startup and shut down emissions, the specific emissions unit that is the source of the air pollution, type and efficiency of the air pollution control equipment, percent of sulfur content in fuel and how the percent is calculated, and other information necessary to quantify operation and emissions and to evaluate pollution control efficiency. The emissions of a pollutant shall be calculated using the source's actual operating hours, production rates, and types of materials processed, stored, or combusted during the inventoried time period.

(2) Each source subject to Section R307-150-4 that is also subject to 40 CFR Part 75 reporting requirements shall submit a summary report of annual sulfur dioxide emissions that were reported to the Environmental Protection Agency under 40 CFR Part 75 in lieu of the reporting requirements in (1) above.

(3) Changes in Emission Measurement Techniques. Each source subject to Section R307-150-4 that uses a different emission monitoring or calculation method than was used to report their sulfur dioxide emissions in 2006 under Rule R307-150 or 40 CFR Part 75 shall adjust their reported emissions to be comparable to the emission monitoring or calculation method that was used in 2006. The calculations that are used to make this adjustment shall be included with the annual emission report.

R307-150-5. Sources Identified in R307-150-3(2), Large Major Source Inventory Requirements.

(1) Each large major source shall submit an emission inventory annually beginning with calendar year 2002. The inventory shall include PM₁₀, PM_{2.5}, oxides of sulfur, oxides of nitrogen, carbon monoxide, volatile organic compounds, and ammonia for ~~all~~ emissions units including fugitive emissions.

(2) For every third year beginning with 2005, the inventory shall also include all other chargeable pollutants and hazardous air pollutants not exempted in Section R307-150-7~~8~~.

(3) For each pollutant specified in (1) or (2) above, the inventory shall include the rate and period of emissions, excess or breakdown emissions, startup and shut down emissions, the specific emissions unit that is the source of the air pollution, composition of air pollutant, type and efficiency of the air pollution control equipment, and other information necessary to quantify operation and emissions and to evaluate pollution control efficiency. The emissions of a pollutant shall be calculated using the source's actual operating hours, production rates, and types of materials processed, stored, or combusted during the inventoried time period.

R307-150-6. Sources Identified in R307-150-3(3).

(1) Each source identified in Subsection R307-150-3(3) shall submit an inventory every third year beginning with calendar year 2002 for ~~all~~ emissions units including fugitive emissions.

(a) The inventory shall include PM₁₀, PM_{2.5}, oxides of sulfur, oxides of nitrogen, carbon monoxide, volatile organic compounds, ammonia, other chargeable pollutants, and hazardous air pollutants not exempted in Section R307-150-7~~8~~.

(b) For each pollutant, the inventory shall include the rate and period of emissions, excess or breakdown emissions, startup and shut down emissions, the specific emissions unit which is the source of the air pollution, composition of air pollutant, type and efficiency of the air pollution control equipment, and other information necessary to quantify operation and emissions and to evaluate pollution control efficiency. The emissions of a pollutant shall be calculated using the

NOTICES OF PROPOSED RULES

source's actual operating hours, production rates, and types of materials processed, stored, or combusted during the inventoried time period.

(2) Sources identified in Subsection R307-150-3(3) shall submit an inventory for each year after 2002 in which the total amount of PM10, oxides of sulfur, oxides of nitrogen, carbon monoxide, or volatile organic compounds increases or decreases by 40 tons or more per year from the most recently submitted inventory. For each pollutant, the inventory shall meet the requirements of Subsections R307-150-6(1)(a) and R307-150-6(1)(b).

[R307-150-7. Sources Identified in R307-150-3(4), Other Part 70 Sources.

(1) Sources identified in R307-150-3(4) shall submit the following emissions inventory every third year beginning with calendar year 2002 for all emission units including fugitive emissions.

(2) Sources identified in R307-150-3(4) shall submit an inventory for each year after 2002 in which the total amount of PM10, oxides of sulfur, oxides of nitrogen, carbon monoxide, or volatile organic compounds increases or decreases by 40 tons or more per year from the most recently submitted inventory.

(3) The emission inventory shall include individual pollutant totals of all chargeable pollutants not exempted in R307-150-8.

R307-150-7[8]. Exempted Hazardous Air Pollutants.

(1) The following air pollutants are exempt from this rule if they are emitted in an amount less than that listed in Table 1.

TABLE 1

POLLUTANT	Pounds/year
Arsenic	0.21
Benzene	33.90
Beryllium	0.04
Ethylene oxide	38.23
Formaldehyde	5.83

(2) Hazardous air pollutants, except for dioxins or furans, are exempt from being reported if they are emitted in an amount less than the smaller of the following:

(a) 500 pounds per year; or

(b) for acute pollutants, the applicable TLV-C expressed in milligrams per cubic meter and multiplied by 15.81 to obtain the pounds-per-year threshold; or

(c) for chronic pollutants, the applicable TLV-TWA expressed in milligrams per cubic meter and multiplied by 21.22 to obtain the pounds-per-year threshold; or

(d) for carcinogenic pollutants, the applicable TLV-C or TLV-TWA expressed in milligrams per cubic meter and multiplied by 7.07 to obtain the pounds-per-year threshold.

R307-150-8[9]. Crude Oil and Natural Gas Source Category.

(1) Sources identified in Subsection R307-150-3(4[5]) shall submit an inventory every third year beginning with the 2017 calendar year for ~~all~~ emission units.

(a) The inventory shall include the total emissions for PM10, PM2.5, oxides of sulfur, oxides of nitrogen, carbon monoxide and volatile organic compounds for each emission unit at the source. The emissions of a pollutant shall be calculated using the emission unit's actual operating hours, product rates, and types of materials processed, stored, or combusted during the inventoried time period.

(b) The inventory shall include the type and efficiency of air pollution control equipment.

(c) The inventory shall be submitted in an electronic format determined by the Director specific to this source category.

R307-150-9. Annual Ozone Emission Statement.

(1) Beginning in the year 2021, sources identified in Subsection R307-150-3(5) shall submit an ozone emission statement to the Division of Air Quality annually by April 15 of each year for the previous year's emissions.

(2) A source required to submit an emission statement shall provide the following minimum information:

(a) a certification that the information contained in the statement is accurate to the best knowledge of the individual certifying the statement;

(b) the physical location where actual emissions occurred;

(c) the name and address of person or entity operating or owning the source;

(d) the nature of the source; and

(e) the total actual emissions of oxides of nitrogen and volatile organic compounds in tons per year for each emission unit.

(3) Emission statements shall be submitted in an electronic format determined by the Director.

KEY: air pollution, reports, inventories

Date of Enactment or Last Substantive Amendment: ~~June 25, 2019~~ 2020

Notice of Continuation: November 13, 2018

Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(c)

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R307-401	Filing No. 52816

Agency Information

1. Department:	Environmental Quality	
Agency:	Air Quality	
Room no.:	Fourth Floor	
Building:	Multi Agency State Office Building	
Street address:	195 N 1950 W	
City, state:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144820	
City, state, zip:	Salt Lake City, UT 84116-4820	
Contact person(s):		
Name:	Phone:	Email:
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R307-401. Permit: New and Modified Sources
3. Purpose of the new rule or reason for the change:
Due to S.B. 88 being passed in the 2020 General Session, amendments were needed in Rule R307-401 to bring the

rule in line with Utah Code.

4. Summary of the new rule or change:

The proposed changes to Rule R307-401 include the requirement that the sources that must have a permit cannot operate without first having obtained such a permit. In other words, operation without a permit--and not merely a failure to obtain a permit--is now a violation of Rule R307-401. Another change in Rule R307-401 due to the statute amendments is that sources are required to pay the applicable New Source Review permitting fee as part of the permit application, and the permit application is not complete without the payment of the fee. The final changes in this rule are to clean up the language to match the statute.

A public hearing is set for Monday, August 3, 2020. Further details may be found below. The hearing will be cancelled should no request for one be made by Friday, July 31, 2020, at 5:00 PM MDT. The final status of the public hearing will be posted on Friday, July 31, after 5:00 PM MDT. The status of the public hearing may be checked at the following website location under the corresponding rule.

<https://deq.utah.gov/public-notice-archive/air-quality-rule-plan-changes-open-public-comment>

Interested persons can participate electronically, via the internet:

<https://meetingsamer15.webex.com/meetingsamer15/j.php?MTID=me86cb2376056a51b26bef1de0d6827d4>
 Meeting number: 126 786 2510
 Meeting password: w23pJRe9sii (92375739 from phones and video systems)
 Join by Phone: 1-408-418-9388

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

Due to these rule amendments, the only fiscal impacts for the state budget would be greater allocation to the general fund from compliance actions regarding the need to obtain a permit before operation.

B) Local governments:

These rule amendments do not apply to local governments and therefore will have no fiscal impact on them.

C) Small businesses ("small business" means a business employing 1-49 persons):

The only costs to small businesses would come from lack of compliance to the new rule amendments, specifically the failure to have a permit prior to operating. The actual numbers for this are inestimable as the Division of Air Quality (Division) does not know how many small

businesses may be non-compliant in the future.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

The only costs to non-small businesses would come from lack of compliance to the new rule amendments, specifically the failure to have a permit prior to operating. The actual numbers for this are inestimable as the Division does not know how many non-small businesses may be non-compliant in the future.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):

There are no anticipated costs to persons other than small businesses, non-small businesses, state, or local government entities because the amendments are not applicable to them.

F) Compliance costs for affected persons:

There are no further compliance costs for affected persons as a result of this rule amendment.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

NOTICES OF PROPOSED RULES

Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

The only fiscal impact these amendments to Rule R307-401, as a result of S.B. 88 (2020), may have on businesses, would be as a result of non-compliance.

B) Name and title of department head commenting on the fiscal impacts:

L. Scott Baird, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Subsection 19-2-104(3)(q)	Section 19-2-108	
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 08/03/2020

B) A public hearing (optional) will be held:

On:	At:	At:
08/03/2020	11:00 AM MDT	https://meetingsamer15.webex.com/meetingsamer15/j.php?MTID=me86cb2376056a51b26bef1de0d6827d4

10. This rule change MAY become effective on: 09/03/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Bryce Bird, Director	Date:	05/18/2020
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R307. Environmental Quality, Air Quality.

R307-401. Permit: New and Modified Sources.

R307-401-1. Purpose.

This rule establishes the application and permitting requirements for new installations and modifications to existing installations throughout the State of Utah. Additional permitting requirements apply to larger installations or installations located in nonattainment or maintenance areas. These additional requirements can be found in Rules R307-403, R307-405, R307-406, R307-420, and R307-421. Modeling requirements in Rule R307-410 may also apply. Each of the permitting rules establishes independent requirements, and the owner or operator must comply with all of the requirements that apply to the installation. Exemptions under R307-401 do not affect applicability of the other permitting rules.

R307-401-2. Definitions.

"Actual emissions" (a) means the actual rate of emissions of an air pollutant from an emissions unit, as determined in accordance with Subsections R307-401-2(b) through R307-401-2(d).

(b) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the air pollutant during a consecutive 24-month period which precedes the particular date and which is representative of normal source operation. The director shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(c) The director may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(d) For any emissions unit that has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

"Best available control technology" means an emissions limitation (including a visible emissions standard) based on the maximum degree of reduction for each air pollutant which would be emitted from any proposed stationary source or modification which the director, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under 40 CFR parts 60 and 61. If the director determines that technological or economic limitations on the application of

measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard or combination thereof, may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

"Building, structure, facility, or installation" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same Major Group (i.e., which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively).

"Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) that would result in a change in emissions.

"Emissions unit" means any part of a stationary source that emits or would have the potential to emit any air pollutant.

"Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

"Indirect source" means a building, structure, facility, or installation which attracts or may attract mobile source activity that results in emissions of a pollutant for which there is a national standard.

"Potential to emit" means the maximum capacity of a stationary source to emit an air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

"Secondary emissions" means emissions which occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. Secondary emissions include emissions from any offsite support facility which would not be constructed or increase its emissions except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

"Stationary source" means any building, structure, facility, or installation which emits or may emit an air pollutant.

R307-401-3. Applicability.

(1) Rule R307-401 applies to any person [~~intending~~] planning to:

(a) construct a new installation [~~which~~] that will or might reasonably be expected to be [~~come~~] a source or an indirect source of air pollution; [~~or~~]

(b) make modifications to or relocate an existing installation [~~which~~] that will or might reasonably be expected to increase the amount of [~~]~~ or change the character or effect of [~~or the character of~~] air

pollutants discharged, so that [~~such~~] the installation may be expected to be [~~come~~] a source or indirect source of air pollution; [~~]~~ or

(c) install an air cleaning device [~~control apparatus~~] or other equipment intended to control emission[s] of air pollutants.

(2) Rules R307-403, R307-405 and R307-406 may establish additional permitting requirements for new or modified sources.

(a) Exemptions contained in Rule R307-401 do not affect applicability or other requirements under Rules R307-403, R307-405 or R307-406.

(b) Exemptions contained in Rules R307-403, R307-405 or R307-406 do not affect applicability or other requirements under Rule R307-401, unless specifically authorized in this rule.

R307-401-4. General Requirements.

The general requirements in Subsections R307-401-4(1) through R307-401-4(3) apply to all new and modified installations, including installations that are exempt from the requirement to obtain an approval order.

(1) Any control apparatus installed on an installation shall be adequately and properly maintained.

(2) If the director determines that an exempted installation is not meeting an approval order or State Implementation Plan limitation, is creating an adverse impact to the environment, or would be injurious to human health or welfare, the director may require the owner or operator to submit a notice of intent and obtain an approval order in accordance with Sections R307-401-5 through R307-401-8. The director will complete an appropriate analysis and evaluation in consultation with the owner or operator before determining that an approval order is required.

(3) Low Oxides of Nitrogen Burner Technology.

(a) Except as provided in Subsection R307-401-4(3)(b), whenever existing fuel combustion burners are replaced, the owner or operator shall install low oxides of nitrogen burners or equivalent oxides of nitrogen controls, as determined by the director, unless such equipment is not physically practical or cost effective. The owner or operator shall submit a demonstration that the equipment is not physically practical or cost effective to the director for review and approval prior to beginning construction.

(b) The provisions of (a) above do not apply to non-commercial, residential buildings.

(4) A person shall not operate a source of air pollution that is required to have a permit under Rule R307-401 unless the person has obtained a permit for the source under the procedures of Rule R307-401.

R307-401-5. Notice of Intent.

(1) Except as provided in Sections R307-401-9 through R307-401-17, any person subject to Rule R307-401 shall submit a notice of intent to the director and receive an approval order prior to initiation of precedent to the construction, modification, installation, establishment, or relocation of an air pollutant source or indirect source. The notice of intent shall be in a format specified by the director.

(2) The notice of intent shall include the following information:

(a) A description of the nature of the processes involved; the nature, procedures for handling and quantities of raw materials; the type and quantity of fuels employed; and the nature and quantity of finished product.

(b) The e [~~E~~]xpected composition and physical characteristics of effluent stream both before and after treatment by any control apparatus, including emission rates, volume, temperature, air pollutant types, and concentration of air pollutants.

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(c) The s[S]ize, type, and performance characteristics of any control apparatus.

(d) An analysis of best available control technology for the proposed source or modification. When determining best available control technology for a new or modified source in an ozone nonattainment or maintenance area that will emit volatile organic compounds or nitrogen oxides, the owner or operator of the source shall consider EPA Control Technique Guidance (CTG) documents and Alternative Control Technique documents that are applicable to the source. Best available control technology shall be at least as stringent as any published CTG that is applicable to the source.

(e) The l[E]ocation and elevation of the emission point and other factors relating to dispersion and diffusion of the air pollutant in relation to nearby structures and window openings, and other information necessary to appraise the possible effects of the effluent.

(f) The location of planned sampling points and the tests of the completed installation to be made by the owner or operator when necessary to ascertain compliance.

(g) The typical operating schedule.

(h) A schedule for construction.

(i) Any plans, specifications and related information that are in final form at the time of submission of notice of intent.

(j) Any additional information required by:

(i) Rule R307-403, Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas;

(ii) Rule R307-405, Permits: Major Sources in Attainment or Unclassified Areas (PSD);

(iii) Rule R307-406, Visibility;

(iv) Rule R307-410, Permits: Emissions Impact Analysis;

(v) Rule R307-420, Permits: Ozone Offset Requirements in Davis and Salt Lake Counties; or

(vi) Rule R307-421, Permits: PM10 Offset Requirements in Salt Lake County and Utah County.

(k) Any other information necessary to determine if the proposed ~~source or~~ construction, modification, installation, or establishment will be in ~~compliance~~ accord with Title R307.

(l) The payment of a new source review fee established under Subsection 19-1-201(6)(i).

(3) Notwithstanding the exemptions in Sections R307-401-9 through R307-401-16, any person that is subject to Rules R307-403, R307-405, or R307-406 shall submit a notice of intent to the director and receive an approval order ~~prior to initiation of~~ precedent to the construction, modification, installation, establishment, or relocation of an air pollutant source or indirect source.

R307-401-6. Review Period.

(1) Completeness Determination. Within 30 days after receipt of a notice of intent, or any additional information necessary to the review, the director will advise the applicant of any deficiency in the notice of intent or the information submitted.

(2) Within 90 days ~~of~~ after the receipt of a complete application including all the information described in Section R307-401-5, the director will

(a) issue an approval order for the proposed construction, installation, modification, relocation, or establishment pursuant to the requirements of Section R307-401-8, or

(b) issue an order prohibiting the proposed construction, installation, modification, relocation or establishment if it is ~~deemed~~ determined that any part of the proposal ~~is inadequate to meet the applicable~~ will not be in the accord with the requirements of Title R307.

(3) The review period under Subsection R307-401-6(2) may be extended by up to three 30-day extensions if more time is needed to review the proposal.

R307-401-7. Public Notice.

(1) Issuing the Notice. Prior to issuing an approval or disapproval order, the director will advertise intent to approve or disapprove in a newspaper of general circulation in the locality of the proposed construction, installation, modification, relocation or establishment.

(2) Opportunity for Review and Comment.

(a) At least one location will be provided where the information submitted by the owner or operator, the director's analysis of the notice of intent proposal, and the proposed approval order conditions will be available for public inspection.

(b) Public Comment.

(i) A 30-day public comment period will be established.

(ii) A request to extend the length of the comment period, up to 30 days, may be submitted to the director within 15 days of the date the notice in Subsection R307-401-7(1) is published.

(iii) Public Hearing. A request for a hearing on the proposed approval or disapproval order may be submitted to the director within 15 days of the date the notice in Subsection R307-401-7(1) is published.

(iv) The hearing will be held in the area of the proposed construction, installation, modification, relocation or establishment.

(v) The public comment and hearing procedure shall not be required when an order is issued for the purpose of extending the time required by the director to review plans and specifications.

(3) The director will consider all comments received during the public comment period and at the public hearing and, if appropriate, will make changes to the proposal in response to comments before issuing an approval order or disapproval order.

R307-401-8. Approval Order.

(1) The director will issue an approval order if the following conditions have been met:

(a) The degree of pollution control for emissions, to include fugitive emissions and fugitive dust, is at least best available control technology. When determining best available control technology for a new or modified source in an ozone nonattainment or maintenance area that will emit volatile organic compounds or nitrogen oxides, best available control technology shall be at least as stringent as any Control Technique Guidance document that has been published by EPA that is applicable to the source.

(b) The proposed installation will meet the applicable requirements of:

(i) Rule R307-403, Permits: New and Modified Sources in Nonattainment Areas and Maintenance Areas;

(ii) Rule R307-405, Permits: Major Sources in Attainment or Unclassified Areas (PSD);

(iii) Rule R307-406, Visibility;

(iv) Rule R307-410, Permits: Emissions Impact Analysis;

(v) Rule R307-420, Permits: Ozone Offset Requirements in Davis and Salt Lake Counties;

(vi) Rule R307-210, Standards of Performance for New Stationary Sources;

(vii) National Primary and Secondary Ambient Air Quality Standards;

(viii) Rule R307-214, National Emission Standards for Hazardous Air Pollutants;

(ix) Rule R307-110, General Requirements: State Implementation Plan; and

(x) all other provisions of Title R307.

(2) The approval order will require that all pollution control equipment be adequately and properly maintained.

(3) Receipt of an approval order does not relieve any owner or operator of the responsibility to comply with the provisions of Title R307 or the State Implementation Plan.

(4) To accommodate staged construction of a large source, the director may issue an order authorizing construction of an initial stage prior to receipt of detailed plans for the entire proposal provided that, through a review of general plans, engineering reports and other information the proposal is determined feasible by the director under the intent of Title R307. Subsequent detailed plans will then be processed as prescribed in this paragraph. For staged construction projects the previous determination under Subsections R307-401-8(1) and (2) will be reviewed and modified as appropriate at the earliest reasonable time prior to commencement of construction of each independent phase of the proposed source or modification.

(5) If the director determines that a proposed stationary source, modification or relocation does not meet the conditions established in (1) above, the director will not issue an approval order.

R307-401-9. Small Source Exemption.

(1) A small stationary source is exempt from the requirement to obtain an approval order in Sections R307-401-5 through R307-401-8 if the following conditions are met.

(a) its actual emissions are less than 5 tons per year per air pollutant of any of the following air pollutants: sulfur dioxide, carbon monoxide, nitrogen oxides, PM₁₀, ozone, or volatile organic compounds;

(b) its actual emissions are less than 500 pounds per year of any hazardous air pollutant and less than 2000 pounds per year of any combination of hazardous air pollutants;

(c) its actual emissions are less than 500 pounds per year of any air pollutant not listed in (a) or (b) above and less than 2000 pounds per year of any combination of air pollutants not listed in (a) or (b) above.

(d) Air pollutants that are drawn from the environment through equipment in intake air and then are released back to the environment without chemical change, as well as carbon dioxide, nitrogen, oxygen, argon, neon, helium, krypton, xenon should not be included in emission calculations when determining applicability under (a) through (c) above.

(2) The owner or operator of a source that is exempted from the requirement to obtain an approval order under (1) above shall no longer be exempt if actual emissions in any subsequent year exceed the emission thresholds in (1) above. The owner or operator shall submit a notice of intent under Section R307-401-5 no later than 180 days after the end of the calendar year in which the source exceeded the emission threshold.

(3) Small Source Exemption - Registration. The director will maintain a registry of sources that are claiming an exemption under Section R307-401-9. The owner or operator of a stationary source that is claiming an exemption under Section R307-401-9 may submit a written registration notice to the director. The notice shall include the following minimum information:

(a) identifying information, including company name and address, location of source, telephone number, and name of plant site manager or point of contact;

(b) a description of the nature of the processes involved, equipment, anticipated quantities of materials used, the type and quantity of fuel employed and nature and quantity of the finished product;

(c) identification of expected emissions;

(d) estimated annual emission rates;

(e) any control apparatus used; and

(f) typical operating schedule.

(4) An exemption under Section R307-401-9 does not affect the requirements of Section R307-401-17, Temporary Relocation.

(5) A stationary source that is not required to obtain a permit under Rule R307-405 for greenhouse gases, as defined in Subsection R307-405-3(9)(a), is not required to obtain an approval order for greenhouse gases under Rule R307-401. This exemption does not affect the requirement to obtain an approval order for any other air pollutant emitted by the stationary source.

R307-401-10. Source Category Exemptions.

The source categories described in Section R307-401-10 are exempt from the requirement to obtain an approval order found in Sections R307-401-5 through R307-401-8. The general provisions in Section R307-401-4 shall apply to these sources.

(1) Fuel-burning equipment in which combustion takes place at no greater pressure than one inch of mercury above ambient pressure with a rated capacity of less than five million BTU per hour using no other fuel than natural gas or LPG or other mixed gas that meets the standards of gas distributed by a utility in accordance with the rules of the Public Service Commission of the State of Utah, unless there are emissions other than combustion products.

(2) Comfort heating equipment such as boilers, water heaters, air heaters and steam generators with a rated capacity of less than one million BTU per hour if fueled only by fuel oil numbers 1 - 6,

(3) Emergency heating equipment, using coal or wood for fuel, with a rated capacity less than 50,000 BTU per hour.

(4) Exhaust systems for controlling steam and heat that do not contain combustion products.

(5) A well site as defined in 40 CFR 60.5430a, including centralized tank batteries, that is not a major source as defined in Section R307-101-2, and is registered with the Division as required by Rule R307-505.

(6) A gasoline dispensing facility as defined in 40 CFR 63.11132 that is not a major source as defined in Section R307-101-2. These sources shall comply with the applicable requirements of Rule R307-328 and 40 CFR 63 Subpart CCCCCC: National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Dispensing Facilities.

R307-401-11. Replacement-in-Kind Equipment.

(1) Applicability. Existing process equipment or pollution control equipment that is covered by an existing approval order or State Implementation Plan requirement may be replaced using the procedures in (2) below if:

(a) the potential to emit of the process equipment is the same or lower;

(b) the number of emission points or emitting units is the same or lower;

(c) no additional types of air pollutants are emitted as a result of the replacement;

(d) the process equipment or pollution control equipment is identical to or functionally equivalent to the replaced equipment;

(e) the replacement does not change the basic design parameters of the process unit or pollution control equipment;

(f) the replaced process equipment or pollution control equipment is permanently removed from the stationary source, otherwise permanently disabled, or permanently barred from operation;

(g) the replacement process equipment or pollution control equipment does not trigger New Source Performance Standards or National Emissions Standards for Hazardous Air Pollutants under 42 U.S.C. 7411 or 7412; and

(h) the replacement of the control apparatus or process equipment does not violate any other provision of Title R307.

(2) Replacement-in-Kind Procedures.

(a) In lieu of filing a notice of intent under Section R307-401-5, the owner or operator of a stationary source shall submit a written notification to the director before replacing the equipment. The notification shall contain a description of the replacement-in-kind equipment, including the control capability of any control apparatus and a demonstration that the conditions of (1) above are met.

(b) If the replacement-in-kind meets the conditions of (1) above, the director will update the source's approval order and notify the owner or operator. Public review under Section R307-401-7 is not required for the update to the approval order.

(3) If the replaced process equipment or pollution control equipment is brought back into operation, it shall constitute a new emissions unit.

R307-401-12. Reduction in Air Pollutants.

(1) Applicability. The owner or operator of a stationary source of air pollutants that reduces or eliminates air pollutants is exempt from the requirement to submit a notice of intent and obtain an approval order prior to construction if:

(a) the project does not increase the potential to emit of any air pollutant or cause emissions of any new air pollutant, and

(b) the director is notified of the change and the reduction of air pollutants is made enforceable through an approval order in accordance with (2) below.

(2) Notification. The owner or operator shall submit a written description of the project to the director no later than 60 days after the changes are made. The director will update the source's approval order or issue a new approval order to include the project and to make the emission reductions enforceable. Public review under Section R307-401-7 is not required for the update to the approval order.

R307-401-13. Plantwide Applicability Limits.

A plantwide applicability limit under Section R307-405-21 does not exempt a stationary source from the requirements of R307-401.

R307-401-14. Used Oil Fuel Burned for Energy Recovery.

(1) Definitions.

"Boiler" means boiler as defined in R315-1-1(b).

"Used Oil" is defined as any oil that has been refined from crude oil, used, and, as a result of such use contaminated by physical or chemical impurities.

(2) Boilers burning used oil for energy recovery are exempt from the requirement to obtain an approval order in Sections R307-401-5 through R307-401-8 if the following requirements are met:

(a) the heat input design is less than one million BTU/hr;

(b) contamination levels of all used oil to be burned do not exceed any of the following values:

(i) arsenic - 5 ppm by weight,

(ii) cadmium - 2 ppm by weight,

(iii) chromium - 10 ppm by weight,

(iv) lead - 100 ppm by weight,

(v) total halogens - 1,000 ppm by weight,

(vi) Sulfur - 0.50% by weight; and

(c) the flash point of all used oil to be burned is at least 100 degrees Fahrenheit.

(3) Testing. The owner or operator shall test each load of used oil received or generated as directed by the director to ensure it meets these requirements. Testing may be performed by the owner^[4] or operator or documented by test reports from the used fuel oil vendor. The flash point shall be measured using the appropriate ASTM method as required by the director. Records for used oil consumption and test reports are to be kept for all periods when fuel-burning equipment is in operation. The records shall be kept on site and made available to the director or the director's representative upon request. Records must be kept for a three-year period.

R307-401-15. Air Strippers and Soil Venting Projects.

(1) The owner or operator of an air stripper or soil venting system that is used to remediate contaminated groundwater or soil is exempt from the notice of intent and approval order requirements of Sections R307-401-5 through R307-401-8 if the following conditions are met:

(a) the estimated total air emissions of volatile organic compounds from a given project are less than the de minimis emissions listed in Subsection R307-401-9(1)(a), and

(b) the level of any one hazardous air pollutant or any combination of hazardous air pollutants is below the levels listed in Subsection R307-410-5(1)(c)(i)(C).

(2) The owner or operator shall submit documentation that the project meets the exemption requirements in Subsection R307-401-15(1) to the director prior to beginning the remediation project.

(3) After beginning the soil remediation project, the owner or operator shall submit emissions information to the director to verify that the emission rates of the volatile organic compounds and hazardous air pollutants in Subsection R307-401-15(1) are not exceeded.

(a) Emissions estimates of volatile organic compounds shall be based on test data obtained in accordance with the test method in the EPA document SW-846, Test #8260c or 8261a, or the most recent EPA revision of either test method if approved by the director.

(b) Emissions estimates of hazardous air pollutants shall be based on test data obtained in accordance with the test method in EPA document SW-846, Test #8021B or the most recent EPA revision of the test method if approved by the director.

(c) Results of the test and calculated annual quantity of emissions of volatile organic compounds and hazardous air pollutants shall be submitted to the director within one month of sampling.

(d) The test samples shall be drawn on intervals of no less than twenty-eight days and no more than thirty-one days (i.e., monthly) for the first quarter, quarterly for the first year, and semi-annually thereafter or as determined necessary by the director.

(4) The following control devices do not require a notice of intent or approval order when used in relation to an air stripper or soil venting project exempted under Section R307-401-15:

(a) thermodestruction unit with a rated input capacity of less than five million BTU per hour using no other auxiliary fuel than natural gas or LPG, or

(b) carbon adsorption unit.

R307-401-16. De minimis Emissions From Soil Aeration Projects.

An owner or operator of a soil remediation project is not subject to the notice of intent and approval order requirements of Sections R307-401-5 through R307-401-8 when soil aeration or land farming is used to conduct a soil remediation, if the owner or operator submits the following information to the director prior to beginning the remediation project:

(1) documentation that the estimated total air emissions of volatile organic compounds, using an appropriate sampling method,

from the project are less than the de minimis emissions listed in Subsection R307-401-9(1)(a);

(2) documentation that the levels of any one hazardous air pollutant or any combination of hazardous air pollutants are less than the levels in Subsection R307-410-5(1)(d); and

(3) the location of the remediation and where the remediated material originated.

R307-401-17. Temporary Relocation.

The owner or operator of a stationary source previously approved under Rule R307-401 may temporarily relocate and operate the stationary source at any site for up to 180 working days in any calendar year not to exceed 365 consecutive days, starting from the initial relocation date. The director will evaluate the expected emissions impact at the site and compliance with applicable Title R307 rules as the basis for determining if approval for temporary relocation may be granted. Records of the working days at each site, consecutive days at each site, and actual production rate shall be submitted to the director at the end of each 180 calendar days. These records shall also be kept on site by the owner or operator for the entire project, and be made available for review to the director as requested. Section R307-401-7, Public Notice, does not apply to temporary relocations under Section R307-401-17.

R307-401-18. Eighteen Month Review.

Approval orders issued by the director in accordance with the provisions of Rule R307-401 will be reviewed eighteen months after the date of issuance to determine the status of construction, installation, modification, relocation or establishment. If a continuous program of construction, installation, modification, relocation or establishment is not proceeding, the director may revoke the approval order.

R307-401-19. General Approval Order.

(1) The director may issue a general approval order that would establish conditions for similar new or modified sources of the same type or for specific types of equipment. The general approval order may apply throughout the state or in a specific area.

(a) A major source or major modification as defined in Rules R307-403, R307-405, or R307-420 for each respective area is not eligible for coverage under a general approval order.

(b) A source that is subject to the requirements of Section R307-403-5 is not eligible for coverage under a general approval order.

(c) A source that is subject to the requirements of Section R307-410-4 is not eligible for coverage under a general approval order unless a demonstration that meets the requirements of Section R307-410-4 was conducted.

(d) A source that is subject to the requirements of Subsection R307-410-5(1)(c)(ii) is not eligible for coverage under a general approval order unless a demonstration that meets the requirements of Subsection R307-410-5(1)(c)(ii) was conducted.

(e) A source that is subject to the requirements of Subsection R307-410-5(1)(c)(iii) is not eligible for coverage under a general approval order.

(2) A general approval order shall meet all applicable requirements of Section R307-401-8.

(3) The public notice requirements in Section R307-401-7 shall apply to a general approval order except that the director will advertise the notice of intent in a newspaper of statewide circulation.

(4) Application.

(a) After a general approval order has been issued, the owner or operator of a proposed new or modified source may apply to be covered under the conditions of the general approval order.

(b) The owner or operator shall submit the application on forms provided by the director in lieu of the notice of intent requirements in Section R307-401-5 for all equipment covered by the general approval order.

(c) The owner or operator may request that an existing, individual approval order for the source be revoked, and that it be covered by the general approval order.

(d) The owner or operator that has applied to be covered by a general approval order shall not initiate construction, modification, or relocation until the application has been approved by the director.

(5) Approval.

(a) The director will review the application and approve or deny the request based on criteria specified in the general approval order for that type of source. If approved, the director will issue an authorization to the applicant to operate under the general approval order.

(b) The public notice requirements in Section R307-401-7 do not apply to the approval of an application to be covered under the general approval order.

(c) The director will maintain a record of all stationary sources that are covered by a specific general approval order and this record will be available for public review.

(6) Exclusions and Revocation.

(a) The director may require any source that has applied for or is authorized by a general approval order to submit a notice of intent and obtain an individual approval order under Section R307-401-8. Cases where an individual approval order will be required include, but are not limited to, the following:

(i) the director determines that the source does not meet the criteria specified in the general approval order;

(ii) the director determines that the application for the general approval order did not contain all necessary information to evaluate applicability under the general approval order;

(iii) modifications were made to the source that were not authorized by the general approval order or an individual approval order;

(iv) the director determines the source may cause a violation of a national ambient air quality standard; or

(v) the director determines that one is required based on the compliance history and current compliance status of the source or applicant.

(b)(i) Any source authorized by a general approval order may request to be excluded from the coverage of the general approval order by submitting a notice of intent under Section R307-401-5 and receiving an individual approval order under Section R307-401-8.

(ii) When the director issues an individual approval order to a source subject to a general approval order, the applicability of the general approval order to the individual source is revoked on the effective date of the individual approval order.

(7) Modification of General Approval Order. The director may modify, replace, or discontinue the general approval order.

(a) Administrative corrections may be made to the existing version of the general approval order. These corrections are to correct typographical errors or similar minor administrative changes.

(b) All other modifications or the discontinuation of a general approval order shall not apply to any source authorized under previous versions of the general approval order unless the owner or operator submits an application to be covered under the new version of the general approval order. Modifications under Subsection R307-401-19(7)(b) shall meet the public notice requirements in Subsection R307-401-19(3).

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(c) A general approval order shall be reviewed at least every three years. The review of the general approval order shall follow the public notice requirements of Subsection R307-401-19(3).

(8) Modifications at a source covered by a general approval order. A source may make modifications only as authorized by the approved general approval order. Modifications outside the scope authorized by the approved general approval order shall require a new application for either an individual approval order under Section R307-401-8 or a general approval order under Section R307-401-19.

KEY: air pollution, permits, approval orders, greenhouse gases
Date of Enactment or Last Substantive Amendment: ~~June 6, 2019~~2020
Notice of Continuation: May 15, 2017
Authorizing, and Implemented or Interpreted Law: 19-2-104(3)(q); 19-2-108

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R307-415-9	Filing No. 52817

Agency Information

1. Department:	Environmental Quality	
Agency:	Air Quality	
Room no.:	Fourth Floor	
Building:	Multi Agency State Office Building	
Street address:	195 N 1950 W	
City, state:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144820	
City, state, zip:	Salt Lake City, UT 84116-4820	
Contact person(s):		
Name:	Phone:	Email:
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R307-415-9. Fees for Operating Permits
3. Purpose of the new rule or reason for the change:
Due to S.B. 88 being passed in the 2020 General Session, amendments were needed in Section R307-415-9 to bring the rule in line with Utah Code.
4. Summary of the new rule or change:
A general amendment throughout the subsections of Section R307-415-9 allows for additional fees to an annual emissions. The previous statutory language only allowed a uniform annual fee based on tons emitted. Examples of

the fees that may be allowed by these language changes could include annual fees, varying fees for different source sizes and types, administrative fees, etc. All fees are proposed annually with the Department of Environmental Quality's fee package that has a public comment period and public hearing each Fall, and then goes to the Legislature for approval during the annual general session. Additionally, there were multiple amendments throughout Section R307-415-9 to align with the state statute and clean up outdated language.

A public hearing is set for Monday, August 3, 2020. Further details may be found below. The hearing will be cancelled should no request for one be made by Friday, July 31, 2020, at 5:00 PM MDT. The final status of the public hearing will be posted on Friday, July 31, after 5:00 PM MDT. The status of the public hearing may be checked at the following website location under the corresponding rule.

<https://deq.utah.gov/public-notice-archive/air-quality-rule-plan-changes-open-public-comment>

Interested persons can participate electronically, via the internet:

<https://meetingsamer15.webex.com/meetingsamer15/j.php?MTID=me86cb2376056a51b26bef1de0d6827d4>
 Meeting number: 126 786 2510
 Meeting password: w23pJRe9sii (92375739 from phones and video systems)
 Join by Phone: 1-408-418-9388

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
There are no direct fiscal impacts to the state budget as a result of this rulemaking. The only fiscal impacts will come from the additional fees to an annual emissions fee that are now allowed as a result of this rulemaking. However, those fees are proposed from the Department of Environmental Quality's fee package which is sent to the Legislature for approval. Therefore, there are no fiscal impacts resulting from these amendments.
B) Local governments:
Local governments are not impacted from this rulemaking and therefore experience no fiscal impacts.
C) Small businesses ("small business" means a business employing 1-49 persons):
There are no direct fiscal impacts to small businesses as a result of this rulemaking. The only fiscal impacts will come from the additional fees to an annual emissions fee that are now allowed as a result of this rulemaking. However, those fees are proposed from the Department of Environmental Quality's fee package which is sent to the

Legislature for approval. Therefore, there are no fiscal impacts resulting from these amendments.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are no direct fiscal impacts to non-small businesses as a result of this rulemaking. The only fiscal impacts will come from the additional fees to an annual emissions fee that are now allowed as a result of this rulemaking. However, those fees are proposed from the Department of Environmental Quality's fee package which is sent to the Legislature for approval. Therefore, there are no fiscal impacts resulting from these amendments.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The rule amendments to Section R307-415-9 do not apply to persons other than small businesses, non-small businesses, state, or local government entities and therefore have no fiscal impacts on them.

F) Compliance costs for affected persons:

There are no additional compliance costs for affected persons as a result of this rulemaking.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved of this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

This rulemaking, as required by S.B. 88 (2020), has no fiscal impact on businesses. The only changes may come in the future from the allowance of additional fees to an annual emissions fee, but those fees are enacted by the Legislature as proposed by the Department of Environmental Quality in the fee package sent each general session.

B) Name and title of department head commenting on the fiscal impacts:

L. Scott Baird, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 19-2-104	Section 19-2-108	
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 08/03/2020

B) A public hearing (optional) will be held:

On:	At:	At:
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NOTICES OF PROPOSED RULES

08/03/2020	11:00 AM MDT	https://meetingsamer15.webex.com/meetingsamer15/j.php?MTID=me86cb2376056a51b26bef1de0d6827d4
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10. This rule change MAY become effective on:	09/03/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

Agency Authorization Information

Agency head or designee, and title:	Bryce Bird, Director	Date:	05/18/2020
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**R307. Environmental Quality, Air Quality.
R307-415. Permits: Operating Permit Requirements.
R307-415-9. Fees for Operating Permits.**

(1) Definitions. The following definition applies only to Subsection R307-415-9: "Allowable emissions" are emissions based on the potential to emit stated by the director in an approval order, the State Implementation Plan or an operating permit.

(2) Applicability. As authorized by Section ~~[19-2-109.1]~~19-1-201, all Part 70 sources must pay ~~[an] annual fees[;]~~ to support the operating permit program. ~~[based on annual emissions of all chargeable pollutants.]~~

~~[(a) Any Title IV affected source that has been designated as a "Phase I Unit" in a substitution plan approved by the Administrator under 40 CFR Section 72.41 shall be exempted from the requirement to pay an emission fee from January 1, 1995 to December 31, 1999.]~~

(3) Calculation of Annual Emission Fee for a Part 70 Source.

(a) The emission fee shall be calculated for all chargeable pollutants emitted from a Part 70 source, even if only one unit or one chargeable pollutant triggers the applicability of Rule R307-415 to the source.

(i) Fugitive emissions and fugitive dust shall be counted when determining the emission fee for a Part 70 source.

(ii) An emission fee shall not be charged for emissions of any amount of a chargeable pollutant if the emissions are already accounted for within the emissions of another chargeable pollutant.

(iii) An emission fee shall not be charged for emissions of any one chargeable pollutant from any one Part 70 source in excess of 4,000 tons per year.

(iv) Emissions resulting directly from an internal combustion engine for transportation purposes or from a non-road vehicle shall not be counted when calculating chargeable emissions for a Part 70 source.

(b) The emission fee portion of the total fee for an existing source prior to the issuance of an operating permit, shall be based on the most recent emission inventory available unless a Part 70 source elected, prior to July 1, 1992, to base the fee for one or more pollutants on allowable emissions established in an approval order or the State Implementation Plan.

(c) The emission fee portion of the total fee after the issuance or renewal of an operating permit shall be based on the most recent emission inventory available unless a Part 70 source elects, prior to the issuance or renewal of the permit, to base the fee for one or more chargeable pollutants on allowable emissions for the entire term of the permit.

(d) When a new Part 70 source begins operating, it shall pay ~~[an]~~ the emission fee portion of the total fee for that fiscal year, prorated from the date the source begins operating plus any additional Part 70 fees. The emission fee portion of the total fee for a new Part 70 source shall be based on allowable emissions until that source has been in operation for a full calendar year, and has submitted an inventory of actual emissions. If a new Part 70 source is not billed in the first billing cycle of its operation, the emission fee plus any additional fees shall be calculated using the emissions that would have been used had the source been billed at that time. This fee shall be in addition to any subsequent emission fees.

(e) When a Part 70 source is no longer subject to Part 70, the emission fee portion of the total fee shall be prorated to the date that the source ceased to be subject to Part 70. If the Part 70 source has already paid an emission fee that is greater than the prorated fee, the balance of the emission fee will be refunded. No other Part 70 fees shall be refunded.

(i) If that Part 70 source again becomes subject to the emission fee requirements, it shall pay an emission fee for that fiscal year prorated from the date the source again became subject to the emission fee requirements plus any additional fees typically charged for Part 70 sources for that year. The fee shall be based on the emission inventory during the last full year of operation. The emission fee shall continue to be based on actual emissions reported for the last full calendar year of operation until that source has been in operation for a full calendar year and has submitted an updated inventory of actual emissions.

(ii) If a Part 70 source has chosen to base the emission fee on allowable emissions, then the prorated fee shall be calculated using allowable emissions.

(f) Modifications. The method for calculating the emission fee for a source shall not be affected by modifications at that source, unless the source demonstrates to the director that another method for calculating chargeable emissions is more representative of operations after the modification has been made.

(g) The director may presume that potential emissions of any chargeable pollutant for the source are equivalent to the actual emissions for the source if recent inventory data are not available.

(4) Collection of Fees.

(a) The ~~[emission]~~ Part 70 fees ~~[is]~~ are due on October 1 of each calendar year or 45 days after the source has received notice of the amount of the fee, whichever is later.

(b) The director may require any owner or operator of the source ~~[person]~~ who fails to pay the annual ~~[emission-]~~ fees by the due date to pay interest on the fee and a penalty under Subsection 19-2-109.1(4)(7)(a) or revoke the operating permit under Subsection 19-2-109.1(4)(b).

(c) An owner or operator ~~[person-]~~ may contest ~~[an emission]~~ a Part 70 fee assessment, or associated penalty, under 19-2-109.1(5)(8).

(d) To reinstate the permit revoked under Subsection 19-2-109.1(4)(b), an owner or operator shall pay the outstanding fees, a penalty of not more than 50% of outstanding fees, and interests on the outstanding fees computed at 12% annually.

KEY: air pollution, greenhouse gases, operating permit, emission fees
Date of Enactment or Last Substantive Amendment: ~~February 4, 2016~~ **2020**
Notice of Continuation: May 15, 2017
Authorizing, and Implemented or Interpreted Law: 19-2-109.1; 19-2-104

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R307-801-1	Filing No. 52818

Agency Information

1. Department:	Environmental Quality	
Agency:	Air Quality	
Room no.:	Fourth Floor	
Building:	Multi Agency State Office Building	
Street address:	195 N 1950 W	
City, state:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144820	
City, state, zip:	Salt Lake City, UT 84116-4820	
Contact person(s):		
Name:	Phone:	Email:
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R307-801-1. Purpose and Authority
3. Purpose of the new rule or reason for the change:
Due to S.B. 88 being passed in the 2020 General Session, amendments were needed in Section R307-801-1 to bring the rule in line with Utah Code.
4. Summary of the new rule or change:
The amendments to Section R307-801-1 merely update the reference to the Utah Code as amended by S.B. 88 (2020).
A public hearing is set for Monday, August 3, 2020. Further details may be found below. The hearing will be cancelled should no request for one be made by Friday, July 31, 2020, at 5:00 PM MDT. The final status of the public hearing will be posted on Friday, July 31, after 5:00 PM MDT. The status of the public hearing may be checked at the following website location under the corresponding rule.

<https://deq.utah.gov/public-notices-archive/air-quality-rule-plan-changes-open-public-comment>

Interested persons can participate electronically, via the internet:

<https://meetingsamer15.webex.com/meetingsamer15/j.php?MTID=me86cb2376056a51b26bef1de0d6827d4>
 Meeting number: 126 786 2510
 Meeting password: w23pJRe9sii (92375739 from phones and video systems)
 Join by Phone: 1-408-418-9388

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

There are no anticipated costs or savings to the state budget because the amendments merely update the reference to the Utah Code as amended by S.B. 88 (2020).

B) Local governments:

There are no anticipated costs or savings to local governments because the amendments merely update the reference to the Utah Code as amended by S.B. 88 (2020).

C) Small businesses ("small business" means a business employing 1-49 persons):

There are no anticipated costs or savings to small businesses because the amendments merely update the reference to the Utah Code as amended by S.B. 88 (2020).

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are no anticipated costs or savings to non-small businesses because the amendments merely update the reference to the Utah Code as amended by S.B. 88 (2020).

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There are no anticipated costs or savings to persons other than small businesses, non-small businesses, state, or local government entities as the amendments merely update the reference to the Utah Code as amended by S.B. 88 (2020).

F) Compliance costs for affected persons:

There are no compliance costs for affected persons as a result of this rulemaking, as the amendments merely update the reference to the Utah Code as amended by S.B. 88 (2020).

G) Regulatory Impact Summary Table (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 will be included in narratives above.)			
Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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
H) Department head approval of regulatory impact analysis:			
The Executive Director of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved of this fiscal analysis.			
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:			
The amendments to Section R307-801-1 merely update the references to the Utah Code as amended in S.B. 88 (2020) and therefore, have no fiscal impact on businesses.			
B) Name and title of department head commenting on the fiscal impacts:			
L. Scott Baird, Executive Director			

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):		
Subsection 19-2-104(1)(d)	Subsections 9-2-104(3)(r) through (t)	40 CFR Part 61 Subpart M
40 CFR Part 763 Subpart E		

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)		
A) Comments will be accepted until:	08/03/2020	
B) A public hearing (optional) will be held:		
On:	At:	At:
08/03/2020	11:00 AM MDT	https://meetingsamer15.webex.com/meetingsamer15/j.php?MTID=me86cb2376056a51b26bef1de0d6827d4

10. This rule change MAY become effective on:	09/03/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

Agency Authorization Information

Agency head or designee, and title:	Bryce Bird, Director	Date:	05/18/2020
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R307. Environmental Quality, Air Quality.

R307-801. Utah Asbestos Rule.

R307-801-1. Purpose and Authority.

This rule establishes procedures and requirements for asbestos abatement or renovation projects and training programs, procedures and requirements for the certification of persons and companies engaged in asbestos abatement or renovation projects, and

work practice standards for performing such projects. This rule is promulgated under the authority of ~~[Utah Code]~~ Subsections [Annotated] 19-2-104(1)(d), (3)(a)(iii), (3)(b)(iv)(A), (B), and (C), (3)(b)(v), (6)(a), and (6)(b). Penalties are authorized by ~~[Utah Code]~~ Section [Annotated] 19-2-115. Fees are authorized by Utah Code Subsection [Annotated] 19-1-201(6)(2)(i).

KEY: air pollution, asbestos, asbestos hazard emergency response, schools

Date of Enactment or Last Substantive Amendment: ~~May 5, 2016~~ **2020**

Notice of Continuation: March 8, 2018

Authorizing, and Implemented or Interpreted Law: 19-2-104(1)(d); 19-2-104(3)(r) through (t); 40 CFR Part 61, Subpart M; 40 CFR Part 763, Subpart E

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal and Reenact		
Utah Admin. Code Ref (R no.):	R381-60	Filing No. 52829

Agency Information

1. Department:	Health	
Agency:	Child Care Center Licensing Committee	
Building:	Highland	
Street address:	3760 South Highland Drive	
City, state:	Salt Lake City, UT 84114	
Mailing address:	PO Box 142003	
City, state, zip:	Salt Lake City, UT 84114-2003	
Contact person(s):		
Name:	Phone:	Email:
Simon Bolivar	801-803-4618	sbolivar@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R381-60. Hourly Child Care Centers
3. Purpose of the new rule or reason for the change:
This repeal and reenact is filed to accommodate all required technical changes suggested by the governor's office and many others needed by the Department of Health procedures. These changes will make this rule be in compliance with the state rulewriting process. Since the required technical changes are many, a repeal and reenact will make this process simpler to be accomplished.
4. Summary of the new rule or change:

Most of the proposed changes are technical. They include re-writing sentences in active voice, deleting or adding punctuation, renumbering as needed, spelling, proper word choice, adding or deleting words to clarify language, and negative into positive sentences. The Child Care Center Licensing Committee (Agency) is also deleting unnecessary language, clarifying training topics as required by federal regulations and deleting required face-to-face training components, clarifying supervision for 16- and 17-year-old caregivers, clarifying room measurements, and clarifying the emergency preparedness and response language to delete the need for the Health and Safety Plan template.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
The Agency does not anticipate any additional costs or savings due to the proposed rule changes because the changes are mostly technical and do not add or delete requirements that may affect the budget.
B) Local governments:
These proposed amendments are not expected to have any fiscal impacts on local governments' revenues or expenditures because the changes are mostly technical and do not add or delete requirements that may affect local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
The majority of child care centers in the state operate as small businesses. However, the Agency does not expect any costs or savings associated with the proposed rule amendments because the changes are mostly technical and do not add or delete requirements that may affect them.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The Agency does not anticipate any additional costs or savings to non-small businesses due to the proposed rule changes because the changes are mostly technical and do not add or delete requirements that may affect them.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):
The Agency does not anticipate any additional costs or savings to persons other than small businesses, non-small businesses, state, or local entities due to the proposed rule changes because the changes are mostly technical and do not add or delete requirements that may affect them.

F) Compliance costs for affected persons:

The Agency does not anticipate any additional costs due to the proposed rule changes because the changes are mostly technical and do not add or delete requirements that may affect them.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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

H) Department head approval of regulatory impact analysis:

I have reviewed and approved this fiscal analysis. Joseph K. Miner, MD, Executive Director

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

This repeal and reenact is filed to accommodate all required technical changes suggested by the governor's office and many others needed by Department of Health procedures. These changes will make this rule be in compliance with the state rulewriting process. Since the

required technical changes are many, a repeal and reenact will make this process simpler to be accomplished. The changes delete unnecessary language, clarify training topics as required by federal regulations and delete required face-to-face training components, clarify supervision for 16- and 17-year-old caregivers, clarify room measurements, and clarify the emergency preparedness and response language to delete the need for the Health and Safety Plan template.

Simon Bolivar worked closely with Holly Langton in the governor's office to ensure that the office agrees that the new rule language conforms to the requirements in the Rulewriting Manual.

There is no fiscal impact on businesses because there are no substantive changes to requirements on childcare businesses.

B) Name and title of department head commenting on the fiscal impacts:

Joseph K. Miner, MD, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Subsection 26-39-203(1)(a)		
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 08/14/2020

10. This rule change MAY become effective on: 08/21/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	06/18/2020
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R381. Health, Child Care Center Licensing Committee.

R381-60. Hourly Child Care Centers.

[R381-60-1. Legal Authority and Purpose.

(1) This rule is enacted and enforced in accordance with Utah Code, Title 26, Chapter 39.

(2) This rule establishes the foundational standards necessary to protect the health and safety of children in hourly child care centers and defines the general procedures and requirements to obtain and maintain a license to provide child care.

R381-60-2. Definitions.

(1) "Applicant" means a person or business who has applied for a new or a renewal of a license, certificate, or exemption from Child Care Licensing.

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

(3) "Background Finding" means information in a background check that may result in a denial from Child Care Licensing.

(4) "Background Check Denial" means that an individual has failed the background 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.

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

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

(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.

(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.

(12) "Child Care Center Licensing Committee" means the Child Care Center Licensing Committee created in the Utah Child Care Licensing Act.

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

(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.

(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.

(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.

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

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

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

(20) "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.

(21) "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.

(22) "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.

(23) "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.

(24) "Facility" means a child care program or the premises approved by the Department to be used for child care.

(25) "Group" means the children who are assigned to and supervised by one or more caregivers.

(26) "Group Size" means the number of children in a group.

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

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

(29) "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)

(30) "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.

(31) "Infant" means a child who is younger than 12 months of age.

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

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

(a) care for or supervise children;

(b) volunteer;

(c) own, operate, direct,;

(d) reside;

NOTICES OF PROPOSED RULES

- ~~_____ (e) count in the caregiver to child ratio; or~~
- ~~_____ (f) have unsupervised contact with a child in care.~~
- ~~_____ (34) "License" means a license issued by the Department to provide child care services.~~
- ~~_____ (35) "Licensee" means the legally responsible person or business that holds a valid license from Child Care Licensing.~~
- ~~_____ (36) "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.~~
- ~~_____ (37) "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)~~
- ~~_____ (38) "Over the Counter Medication" means medication that can be purchased without a written prescription including herbal remedies, vitamins, and mineral supplements.~~
- ~~_____ (39) "Parent" means the parent or legal guardian of a child in care.~~
- ~~_____ (40) "Person" means an individual or a business entity.~~
- ~~_____ (41) "Physical Abuse" means causing nonaccidental physical harm to a child.~~
- ~~_____ (42) "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.~~
- ~~_____ (43) "Preschooler" means a child age 2 through 4 years old.~~
- ~~_____ (44) "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.~~
- ~~_____ (45) "Protective Cushioning" means a shock absorbing surface under and around play equipment that reduces the severity of injuries from falls.~~
- ~~_____ (46) "Provider" means the legally responsible person or business that holds a valid license from Child Care Licensing.~~
- ~~_____ (47) "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.~~
- ~~_____ (48) "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.~~
- ~~_____ (49) "Room" will be defined as follows:~~
 - ~~_____ When a large room is divided into smaller rooms or areas with barriers such as furniture or with half walls, the room or area will be considered:~~
 - ~~_____ (a) One room, when the room is divided by a solid barrier that is 24 inches or less, whether the barrier is movable or immovable.~~
 - ~~_____ (b) One room, when the room is divided by a solid barrier that is between 25 and 40 inches in height and there is an opening in the barrier through which caregivers and children can move freely.~~
 - ~~_____ (c) Two rooms, when the room is divided by a solid barrier that is between 25 and 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked such as with a child safety gate. This applies to a diaper changing station that is located behind a closed gate.~~

- ~~_____ (d) Two rooms, when the room is divided by a solid barrier that is over 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked such as with a child safety gate. If there is an opening through which caregivers and children can move freely and if the opening is not blocked, refer to the instructions for a large opening, archway, or doorway.~~
- ~~_____ When two rooms or areas are connected by a large opening, archway, or doorway, the rooms or areas will be considered:~~
 - ~~_____ (e) One room, when the width of the opening or archway is equal to or greater than the combined width of the walls on each side of the opening or archway in the larger of the two rooms or areas, and there is no furniture or other dividers blocking the opening or archway. Otherwise this will be considered two rooms.~~
 - ~~_____ (f) Two rooms, when the width of the opening or archway is smaller than the combined width of the walls on each side of the opening or archway in the larger of the two rooms or areas.~~
 - ~~_____ When in outdoor areas separated by interior fences, consider it:~~
 - ~~_____ (g) One area, when the interior fence is 24 inches or lower in height, whether or not the fence has an opening.~~
 - ~~_____ (h) One area, when the interior fence is 40 inches or lower in height with an opening through which caregivers and children can move freely.~~
 - ~~_____ (i) Two areas, when the interior fence is higher than 24 inches and there is no opening.~~
 - ~~_____ (j) Two areas, when the interior fence is higher than 40 inches whether or not the fence has an opening.~~
- ~~_____ (50) "Sanitize" means to use a chemical product to remove soil and bacteria from a surface or object.~~
- ~~_____ (51) "School Age Child" means a child age 5 through 12 years old.~~
- ~~_____ (52) "Sexual Abuse" means abuse as defined in Utah Code, Title 76-5-404(1).~~
- ~~_____ (53) "Sexually Explicit Material" means any depiction of sexually explicit conduct as defined in Utah Code, Title 76-5b-103(10).~~
- ~~_____ (54) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta crib, playpen, or bed.~~
- ~~_____ (55) "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.~~
- ~~_____ (56) "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 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.~~
- ~~_____ (57) "Substitute" means a person who assumes a caregiver's duties when the caregiver is not present.~~
- ~~_____ (58) "Toddler" means a child age 12 through 23 months.~~
- ~~_____ (59) "Unrelated Child" means a child who is not a "related child" as defined in R381-60-2(48).~~

~~(60) "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 check.~~

~~(61) "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.~~

~~(62) "Volunteer" means an individual who receives no form of direct or indirect compensation for their service.~~

~~(63) "Working Days" means the days of the week the Department is open for business.~~

R381-60-3. License Required.

~~(1) A person or persons shall be licensed as an hourly child care center if they provide care:~~

- ~~(a) in the absence of the child's parent;~~
- ~~(b) in a place other than the provider's home or the child's home;~~
- ~~(c) for 5 or more children;~~
- ~~(d) for 4 or more hours per day, and no child is cared for on a regular schedule;~~
- ~~(e) for each individual child for less than 24 hours per day;~~
- ~~(f) on an ongoing basis for 4 or more weeks in a year, and~~
- ~~(g) for direct or indirect compensation.~~

~~(2) The Department may not license, nor is a license required for:~~

- ~~(a) a person who cares for related children only, or~~
- ~~(b) a person who provides care on a sporadic basis only.~~

~~(3) A provider may not be licensed to provide child care in a facility that is also licensed to offer foster or respite care services, or another licensed or certified human services program, unless the part of the building requesting a CCL license is physically separated from the other building services.~~

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;~~
- ~~(f) a copy of a completed Department health and safety plan form;~~
- ~~(g) CCL background checks for all covered individuals as required in R381-60-8;~~
- ~~(h) new provider training completion no more than six months before the date of the application; 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 verify compliance with the following:~~

- ~~(a) address numbers and/or letters shall be readable from the street;~~

~~(b) exit doors shall operate properly and shall be well maintained;~~

~~(c) obstructions in exits, aisles, corridors, and stairways shall be removed;~~

~~(d) exit doors shall be unlocked from the inside during business hours;~~

~~(e) exits shall be clearly identified;~~

~~(f) there shall be at least one unobstructed fire extinguisher on each level of the building, currently charged and serviced, and mounted not more than 5 feet above the floor;~~

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

~~(h) boiler, mechanical, and electrical panel rooms shall not be used for storage.~~

~~(4) If the 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 verify 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;~~

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- ~~(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 checks, civil money penalties, and other fees assessed by the Department.~~

~~(15) An applicant or provider may appeal any Department decision within 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 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.~~

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

~~(a) be signed by the parent; and~~

~~(b) kept on site for review by the Department.~~

~~(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 ensure that all employees and volunteers 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 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 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.~~

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- ~~_____ (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 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 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 check;~~
 - ~~_____ (b) receive at least 2.5 hours of preservice training before beginning job duties;~~
 - ~~_____ (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 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 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 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 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 check;~~
 - ~~_____ (b) 18 years of age or older shall pass a CCL background 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 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 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 current first aid and CPR certification, if required in rule; and~~
- ~~(c) a six-week record of the times worked each day.~~

R381-60-8. Background Checks.

~~(1) Before a new covered individual becomes involved with child care in the program, the provider shall use the CCL provider portal search to:~~

- ~~(a) verify that the individual has a current CCL background check, and~~
- ~~(b) associate that individual with their facility.~~

~~(2) Before a new covered individual who does not show in the CCL provider portal search becomes involved with child care in the program, the provider shall:~~

- ~~(a) have the individual submit an online background check form and fingerprints for individuals age 18 years and older;~~
- ~~(b) authorize the individual's background check through the CCL provider's portal;~~

- ~~(c) pay all required fees, and~~
- ~~(d) receive written notice from CCL that the individual passed the background check.~~

~~(3) A covered individual without a current background check will not show in the CCL provider portal search. The Department may not consider a covered individual's background check current when the covered individual has:~~

- ~~(a) failed to pass a CCL background check;~~
- ~~(b) moved outside of Utah; or~~
- ~~(c) not been associated with an active, CCL approved child care facility for the past 180 days.~~

~~(4) Within 10 working days from when a child who resides in the facility turns 12 years old, the provider shall:~~

- ~~(a) ensure that an online background check form is submitted;~~
- ~~(b) authorize the child's background check through the CCL provider's portal, and~~
- ~~(c) pay all required 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) 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, or~~
- ~~(d) for any of the reasons listed under R381-100-8(8).~~

~~(8) The following convictions, regardless of severity, may result in a background 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.~~

~~(9) 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 check was conducted.~~

~~(10) 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.~~

~~(11) If the provider has a background check denial, the Department may suspend or deny their license until the reason for the denial is resolved.~~

~~(12) 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.~~

~~(13) 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.~~

~~(14) 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.~~

~~(15) 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.~~

~~(16) 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.~~

R381-60-9. Facility.

- ~~_____ (1) There shall be at least 35 square feet of indoor space for each child in care, including the provider's and employees' children.~~
- ~~_____ (2) Indoor space per child may include floor space used for furniture, fixtures, or equipment if the furniture, fixture, or equipment is used:

 - ~~_____ (a) by children;~~
 - ~~_____ (b) for the care of children, or~~
 - ~~_____ (c) to store classroom materials.~~~~
- ~~_____ (3) The following areas are not included when measuring indoor space for children's use:

 - ~~_____ (a) bathrooms;~~
 - ~~_____ (b) closets and staff lockers;~~
 - ~~_____ (c) hallways;~~
 - ~~_____ (d) lobbies and entryways;~~
 - ~~_____ (e) kitchens; and~~
 - ~~_____ (f) staff offices.~~~~
- ~~_____ (4) The maximum allowed capacity for a child care facility may be limited by local ordinances.~~
- ~~_____ (5) The number of children in care at any given time shall not exceed the capacity identified on the license.~~
- ~~_____ (6) The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint is tested for lead. If lead-based paint is found, the provider shall contact their local health department within 5 working days and follow required procedures for remediation of the lead hazard.~~
- ~~_____ (7) Each room and indoor area that is used by children shall be ventilated by mechanical ventilation, or by windows that open and have screens.~~
- ~~_____ (8) All rooms and areas shall have adequate light intensity for the safety of the children and the type of activity being conducted.~~
- ~~_____ (9) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.~~
- ~~_____ (10) There shall be a working telephone at the facility, in each vehicle while transporting children, and during offsite activities.~~
- ~~_____ (11) There shall be a working handwashing sink used exclusively for handwashing.~~
- ~~_____ (12) For preschoolers and toddlers who are toilet trained, there shall be 1 working toilet and 1 working sink for every 15 children in the center. For school age children, there shall be 1 working toilet and 1 working sink for every 25 children in the center.~~
- ~~_____ (13) A bathroom that provides privacy shall be available for use by school age children.~~
- ~~_____ (14) If there is an outdoor area used by children, the area shall:

 - ~~_____ (a) be safely accessible to children;~~
 - ~~_____ (b) have at least 40 square feet of space for each child using the area at one time; and~~
 - ~~_____ (c) be enclosed within a fence, wall, or solid natural barrier that is at least 4 feet high and that has no gap 5 by 5 inches or greater in or under it.~~~~
- ~~_____ (15) When children are outdoors:

 - ~~_____ (a) children shall be in the enclosed area except during offsite activities, and~~
 - ~~_____ (b) there shall be shade available to protect the children from excessive sun and heat.~~~~
- ~~_____ (16) If there is a swimming pool on the premises that is not emptied after each use:

 - ~~_____ (a) the provider shall meet applicable state and local laws and ordinances related to the operation of a swimming pool and maintain the pool in a safe manner; and~~~~

- ~~_____ (b) when not in use, the pool shall be enclosed within at least a 4-foot high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises, or covered with an approved enclosure that meets the ASTM F1346 standard.~~
- ~~_____ (17) The provider shall maintain buildings and outdoor areas in good repair and safe condition including:

 - ~~_____ (a) ceilings, walls, and floor coverings;~~
 - ~~_____ (b) lighting, bathroom, and other fixtures;~~
 - ~~_____ (c) draperies, blinds, and other window coverings;~~
 - ~~_____ (d) indoor and outdoor play equipment;~~
 - ~~_____ (e) furniture, toys, and materials accessible to the children; and~~
 - ~~_____ (f) entrances, exits, steps, and walkways including keeping them free of ice, snow, and other hazards.~~~~
- ~~_____ (18) Accessible raised decks or balconies that are 5 feet or higher, and open basement stairwells that are 5 feet or deeper shall have protective barriers that are at least 3 feet high.~~
- ~~_____ (19) If the facility is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, the entire facility shall be inspected and covered individuals in the facility shall comply with all rules, except when all of the following conditions are met:

 - ~~_____ (a) there is a separate entrance for the child care program;~~
 - ~~_____ (b) there are no connecting interior doorways that can be used by unauthorized individuals; and~~
 - ~~_____ (c) there is no shared access to the outdoor area used for child care, or a qualified caregiver is present when children are using a shared outdoor area of the facility.~~~~

R381-60-10. Ratios and Group Size.

- ~~_____ (1) As listed in Table 1, the provider shall:

 - ~~_____ (a) maintain at least the number of caregivers and not exceed the number of children in the caregiver to child ratio, and~~
 - ~~_____ (b) not exceed maximum group sizes.~~~~

TABLE 1

Caregiver to Child Ratios

_____ # of Caregivers	_____ # of Children	_____ Limits for Mixed Ages
1	12 per group	No children younger than age 2
1	8 per group	2 children younger than age 2
1	6 in the facility	3 children younger than age 2
2	24 per group	No children younger than age 2
2	16 per group	4 children younger than age 2

- ~~_____ (2) Children in care shall include the provider's and caregivers' own children younger than age 4 years old.~~
- ~~_____ (3) The provider's and caregivers' own children age 4 years and older, shall not be counted in the caregiver to child ratios and group sizes when the parent of the child is working at the center.~~
- ~~_____ (4) If more than 2 infants or toddlers are included in a mixed-age group, and the group has more than 6 children, there shall be at least 2 caregivers with the group unless there are 6 or fewer children in the facility.~~
- ~~_____ (5) When caring for children younger than age 2 years old in single age groups:

 - ~~_____ (a) there shall be no more than 4 children with 1 caregiver, and~~
 - ~~_____ (b) these children shall be cared for in an area that is physically separated from older children.~~~~

~~_____ (6) If there is only 1 caregiver in the facility and no children younger than 2 years old are present, the provider can be temporarily out of ratio if:~~

~~_____ (a) a second caregiver arrives within 20 minutes from when the 13th child arrived, and~~

~~_____ (b) the total number of children present does not exceed 16.~~

~~_____ (7) Caregivers who are 16 or 17 years old may be included in the caregiver to child ratio, but shall not have unsupervised contact with any child in care.~~

~~_____ (8) Volunteers may be included in the caregiver to child ratio if they:~~

~~_____ (a) are at least 16 years old;~~

~~_____ (b) receive at least 2.5 hours of preservice training before counting in the caregiver to child ratio, and~~

~~_____ (c) complete at least 1/2 hour of child care training for each month they volunteer 40 hours or more.~~

~~_____ (9) Student interns who are registered in a high school or college child care course may count in the caregiver to child ratio when requirements in R381-60-7(14)(a)-(c) are met.~~

~~_____ (10) Guests shall not count in caregiver to child ratio.~~

R381-60-11. Child Supervision and Security.

~~_____ (1) The provider shall ensure that caregivers provide and maintain active supervision of each child at all times.~~

~~_____ (2) Active supervision shall include:~~

~~_____ (a) for children younger than 5 years of age, the caregiver shall be physically present in the room or area with the children;~~

~~_____ (b) for school age children, the caregiver shall be able to hear the children and be close enough to intervene;~~

~~_____ (c) caregivers shall know the number of children in their care at all times;~~

~~_____ (d) caregivers' attention shall be focused on the children and not on caregivers' personal interests;~~

~~_____ (e) caregivers shall be aware of the entire group of children even when interacting with a smaller group or an individual child; and~~

~~_____ (f) caregivers shall position themselves so all children in their assigned group are actively supervised.~~

~~_____ (3) When video cameras and mirrors are used to supervise napping children:~~

~~_____ (a) the napping room shall be adjacent to a non-napping room;~~

~~_____ (b) there shall be a staff member in the non-napping room;~~

~~_____ (c) cameras or mirrors shall be positioned so that every child can be seen;~~

~~_____ (d) the staff member shall be able to see and hear each child;~~

~~_____ (e) there shall be an open door without a barrier, such as a gate, between the napping room and the non-napping room; and~~

~~_____ (f) children who wake up shall be moved to the non-napping room.~~

~~_____ (4) A blanket or other item shall not be placed over sleeping equipment in such a way that prevents the caregiver from seeing the sleeping child.~~

~~_____ (5) Whenever a child is in care, the child's parent shall have access to their child and the areas used to care for their child.~~

~~_____ (6) To maintain security and supervision of children, the provider shall ensure that:~~

~~_____ (a) each child is signed in and out;~~

~~_____ (b) only parents or persons with written authorization from the parent may sign out a child;~~

~~_____ (c) photo identification is required if the individual signing the child in or out is unknown to the provider;~~

~~_____ (d) persons signing children in and out use identifiers, such as a signature, initials, or electronic code;~~

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

~~_____ (f) there is written permission from their parents if school-age children sign themselves in and out.~~

~~_____ (7) In an emergency, the caregiver shall accept the parent's verbal authorization to release a child when the caregiver can confirm the identity of:~~

~~_____ (a) the person giving verbal authorization, and~~

~~_____ (b) the person picking up the child.~~

~~_____ (8) A six week record of each child's daily attendance, including sign in and sign out records, shall be kept on site for review by the Department.~~

R381-60-12. Child Guidance and Interaction.

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

~~_____ (2) The provider shall inform parents, children, and those who interact with the children of the center's behavioral expectations and how any misbehavior will be handled.~~

~~_____ (3) Individuals who interact with the children shall guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.~~

~~_____ (4) Caregivers shall use gentle, passive restraint with children only when it is needed to stop children from injuring themselves or others, or from destroying property.~~

~~_____ (5) Interactions with the children shall not include:~~

~~_____ (a) any form of corporal punishment or any action that produces physical pain or discomfort such as hitting, spanking, shaking, biting, or pinching;~~

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

~~_____ (c) shouting at children;~~

~~_____ (d) any form of emotional abuse;~~

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

~~_____ (f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.~~

~~_____ (6) Any person who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in Utah Code Section 62A-4a-403 and Section 62A-4a-411.~~

R381-60-13. Child Safety and Injury Prevention.

~~_____ (1) The building, outdoor area, toys, and equipment shall be used in a safe manner and as intended by the manufacturer to prevent injury to children.~~

~~_____ (2) 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.~~

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- ~~_____ (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 center 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) Tobacco, e cigarettes, e juice, e liquids, and similar products shall be inaccessible and, in compliance with the Utah Indoor Clean Air Act, 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) 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 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 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.~~

~~(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.~~

~~(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.~~

~~(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.~~

R381-60-16. Food and Nutrition.

~~If food service is provided:~~

~~(1) The provider shall ensure that each child age 2 years and older who is in care for 3 hours or more is offered a meal or snack at least once every 3 hours.~~

~~(2) When food for children's meals and/or snacks is supplied by the provider the meal service shall meet local health department food service regulations.~~

~~(3) The person who serves food to children shall:~~

~~(a) be aware of the children in their assigned group who have food allergies or sensitivities; and~~

~~(b) ensure that the children are not served the food or drink they are allergic or sensitive to.~~

~~(4) Children's food shall be served on dishes, napkins, or sanitary highchair trays, except an individual finger food, such as a cracker, that may be placed directly in a child's hand. Food shall not be placed on a bare table.~~

~~(5) Food and drink brought in by parents for their child's use shall be:~~

~~(a) labeled with the child's name;~~

~~(b) refrigerated if needed; and~~

~~(c) consumed only by that child.~~

R381-60-17. Medications.

~~(1) Nonrefrigerated medications shall be stored at least 48 inches above the floor or shall be locked.~~

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~~(2) Refrigerated medications shall be stored at least 36 inches above the floor or shall be locked, and if liquid, they shall be stored in a separate leakproof container.~~

~~(3) All over the counter and prescription medications supplied by parents shall:~~

- ~~(a) be labeled with the child's full name;~~
- ~~(b) be kept in the original or pharmacy container;~~
- ~~(c) have the original label, and~~
- ~~(d) have child safety caps.~~

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

~~(5) The medication permission form shall include:~~

- ~~(a) the name of the child;~~
- ~~(b) the name of the medication;~~
- ~~(c) written instructions for administration, and~~
- ~~(d) the parent signature and the date signed.~~

~~(6) The instructions for administering the medication shall include:~~

- ~~(a) the dosage;~~
- ~~(b) how the medication will be given;~~
- ~~(c) the times and dates to administer the medication, and~~
- ~~(d) the disease or condition being treated.~~

~~(7) If the provider supplies an over the counter medication for children's use, the medication shall not be administered to any child without previous parental consent for each instance it is given. The consent shall be:~~

- ~~(a) prior written consent; or~~
- ~~(b) verbal consent if the date and time of the consent is documented, and is signed by the parent upon picking up their child.~~

~~(8) The caregiver administering the medication shall:~~

- ~~(a) wash their hands;~~
- ~~(b) check the medication label to confirm the child's name if the parent supplied the medication;~~

~~(c) check the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer, and~~

- ~~(d) administer the medication.~~

~~(9) Immediately after administering a medication, the caregiver giving the medication shall record the following information:~~

- ~~(a) the date, time, and dosage of the medication given;~~
- ~~(b) any errors in administration or adverse reactions; and~~
- ~~(c) their signature or initials.~~

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

~~(11) If the provider chooses not to administer medication as instructed by the parent, the provider shall notify the parent of their refusal to administer the medication before the time the medication needs to be given.~~

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

R381-60-18. Activities.

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

~~(2) If an approved outdoor area is available, daily activities shall include outdoor play as weather and air quality allow.~~

~~(3) Physical development activities shall include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every 2 hours children spend in the program.~~

~~(4) Toys, materials, and equipment needed to support children's healthy development shall be available to the children.~~

~~(5) Except for occasional special events, 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 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) first aid 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 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.~~

~~(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.~~

~~(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.~~

~~(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.~~

~~(11) Unless prohibited in R381-60-19(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.~~

~~(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.~~

~~(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.~~

~~(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	Coarse	Fine	Medium	Shredded
	Sand	Sand	Gravel	Gravel	Tires
4' high or less	6"	6"	6"	6"	6"
Over 4' up to 5'	6"	6"	6"	6"	6"
Over 5' up to 6'	6"	9"	6"	9"	6"
Over 6' up to 7'	9"	not allowed	9"	not allowed	6"
Over 7' up to 8'	9"	not allowed	9"	not allowed	6"
Over 8' up to 9'	9"	not allowed	9"	not allowed	6"
Over 9' up to 10'	not allowed	not allowed	9"	not allowed	6"
Over 10' up to 11'	not allowed	not allowed	not allowed	not allowed	6"
Over 11' up to 12'	not allowed	not allowed	not allowed	not allowed	6"

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

~~(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~~

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Department documentation from the manufacturer that the material meets these specifications:

(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.

(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.

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

(20) Stationary play equipment shall be stable or securely anchored.

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

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

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

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

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

R381-60-20. 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 first aid supplies, including at least antiseptic, band-aids, and tweezers.

(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 reptiles and amphibians.

(8) Dogs, cats, and ferrets that are housed at the facility shall have current rabies vaccinations.

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

R381-60-22. Rest and Sleep.

If sleeping equipment is used for rest and sleep time:

(1) A separate crib, cot, mat, or other sleeping equipment shall be used for each child during nap times.

(2) Sleeping equipment shall be kept in good repair, including mats and mattresses that shall have smooth, waterproof surfaces.

(3) Each crib shall:

(a) have a tight fitting mattress;

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

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

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

(e) meet CPSC standards.

(4) When in use, sleeping equipment such as cribs, cots, and mats shall be placed at least 2 feet apart.

(5) Sleeping equipment shall not block exits.

(6) Sleeping equipment shall be cleaned and sanitized before each use.

R381-60-23. Diapering.

If the provider accepts children who wear diapers:

- (1) The provider shall post diapering procedures at each diapering station and ensure that they are followed.
- (2) Caregivers shall ensure that each child's diaper is:
 - (a) checked at least once every 2 hours;
 - (b) promptly changed when wet or soiled, and
 - (c) checked as soon as a sleeping child awakens.
- (3) Caregivers shall change children's diapers at a diapering station. Diapers shall not be changed on surfaces used for any other purpose.
- (4) The diapering surface shall be smooth, waterproof, and in good repair.
- (5) Each diapering station shall be equipped with railings to prevent a child from falling when being diapered.
- (6) Caregivers shall not leave children unattended on the diapering surface.
- (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.
- (8) Caregivers shall wash their hands after each diaper change.
- (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.
- (10) Indoor containers where wet and soiled diapers are placed shall be cleaned and sanitized each day.
- (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.]

R381-60-1. Legal Authority and Purpose.

(1) This rule is enacted and enforced in accordance with Utah Code, Title 26, Chapter 39.

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

R381-60-2. Definitions.

(1) "Applicant" means a person or business who has applied for a new or a renewal of a license from Child Care Licensing.

(2) "Background Finding" means information in a background check that may result in a denial from Child Care Licensing.

(3) "Background Check Denial" means that an individual has failed the background check and is prohibited from being involved with a child care program.

(4) "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.

(5) "Body Fluid" means blood, urine, feces, vomit, mucus, or saliva.

(6) "Business Days and Hours" means the days of the week and times the facility is open for business.

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

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

(9) "CCL" means the Child Care Licensing Program in the Department of Health that is delegated with the responsibility to enforce the Utah Child Care Licensing Act.

(10) "Child Care" means continuous care and supervision of five or more qualifying children that is:

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

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

_____ (c) for direct or indirect compensation.

_____ (11) "Child Care Center Licensing Committee" means the Child Care Center Licensing Committee created in the Utah Child Care Licensing Act.

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

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

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

_____ (15) "Covered Individual" means any of the following individuals involved with a child care program:

_____ (a) an owner;

_____ (b) a director;

_____ (c) a member of the governing body;

_____ (d) an employee;

_____ (e) a caregiver;

_____ (f) a volunteer, except a parent of a child enrolled in the child care program;

_____ (g) an individual age 12 years old or older who resides in the facility; and

_____ (h) anyone who has unsupervised contact with a child in care.

_____ (16) "Crib" means an infant's bed with sides to protect them from falling including a bassinet, porta-crib, or play pen.

_____ (17) "Department" means the Utah Department of Health.

_____ (18) "Designated Play Surface" means any accessible elevated surface for standing, walking, crawling, sitting or climbing; or an accessible flat surface at least two by two inches in size and having an angle less than 30 degrees from horizontal.

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

_____ (20) "Emotional Abuse" means behavior that could harm a child's emotional development, such as threatening, intimidating, humiliating, demeaning, criticizing, rejecting, using profane language, or using inappropriate physical restraint.

_____ (21) "Entrapment Hazard" means an opening greater than 3-1/2 by 6-1/4 inches and less than nine inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing a child's entrapment and strangulation.

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

_____ (23) "Group" means the children who are assigned to and supervised by one or more caregivers.

_____ (24) "Group Size" means the number of children in a group.

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

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

_____ (27) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence.

_____ (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 at least 36 inches above the floor; or

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

_____ (29) "Infant" means a child who is younger than 12 months old.

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

_____ (31) "Involved with Child Care" means to do any of the following at or for a child care program;

_____ (a) care for or supervise children;

_____ (b) volunteer;

_____ (c) own, operate, direct;

_____ (d) reside;

_____ (e) count in the caregiver-to-child ratio; or

_____ (f) have unsupervised contact with a child in care.

_____ (32) "License" means a license issued by the department to provide child care services.

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

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

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

_____ (36) "Parent" means the parent or legal guardian of a child in care.

_____ (37) "Person" means an individual or a business entity.

_____ (38) "Physical Abuse" means causing nonaccidental physical harm to a child.

_____ (39) "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.

_____ (40) "Preschooler" means a child age two through four years old.

_____ (41) "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.

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

_____ (43) "Provider" means the legally responsible person or business that holds a valid license from Child Care Licensing.

_____ (44) "Qualifying Child" means:

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

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

_____ (c) a child who is younger than four years old and is the child of the provider or a caregiver.

_____ (45) "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.

_____ (46) "Room" is defined by the department as follows:

If a large room is divided into smaller rooms or areas with barriers such as furniture or with half walls, the room or area is considered:

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

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

(c) Two rooms, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked such as with a child safety gate. This also applies to a diaper changing station that is located behind a closed gate.

(d) Two rooms, if the room is divided by a solid barrier that is over 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked such as with a child safety gate. If there is an opening through which caregivers and children can move freely and the opening is not blocked, refer to the instructions for a large opening, archway, or doorway.

If two rooms or areas are connected by a large opening, archway, or doorway, the rooms or areas are considered:

(e) One room, if the width of the opening or archway is equal to or greater than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas, and there is no furniture or other dividers blocking the opening or archway. Otherwise the department shall consider this to be two rooms.

(f) Two rooms, if the width of the opening or archway is smaller than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas.

If in outdoor areas separated by interior fences, the department considers it:

(g) One area, if the interior fence is lower than 24 inches in height, whether or not the fence has an opening.

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

(i) Two areas if the interior fence is higher than 24 inches and there is no opening.

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

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

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

(49) "Sexual Abuse" means to take indecent liberties with a child with the intention to arouse or gratify the sexual desire of an individual or to cause pain or discomfort.

(50) "Sexually Explicit Material" means any depiction of actual or simulated sexually explicit conduct.

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

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

(a) a sandbox;

(b) a stationary circular tricycle;

(c) a sensory table; or

(d) a playhouse that sits on the ground or floor and has no attached equipment, such as a slide, swing, or climber.

(53) "Strangulation Hazard" means something on which a child's clothes or drawstrings could become caught, or something in which a child could become entangled such as:

(a) a protruding bolt end that extends more than two 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 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.

(54) "Toddler" means a child age 12 through 23 months old.

(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 check.

(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.

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

(58) "Working Days" means the days of the week the department is open for business.

R381-60-3. License Required.

(1) A person shall be licensed as an hourly child care center if they provide care:

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

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

(c) for five or more unrelated children;

(d) for four or more hours per day, and no child is cared for on a regular schedule;

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

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

(g) for direct or indirect compensation.

(2) A person who is not required to be licensed may voluntarily become licensed, except for care that is for related children only or on a sporadic basis.

(3) A provider may be licensed to provide child care in a facility that is also licensed to offer foster or respite care services, or another licensed or certified human services program if the part of the building requesting a CCL license is physically separated from the other building services.

R381-60-4. License Application, Renewal, Changes, and Variances.

(1) Each applicant for a new child care license shall:

(a) submit an online application;

(b) submit a copy of a current local fire clearance or a statement from the local fire authority that a fire inspection is not required;

(c) submit 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) submit a copy of a current local business license or a statement from the city that a business license is not required;

(e) submit a copy of the educational credentials of the individual who will be the director as required in Section R381-60-7;

(f) complete CCL background checks for covered individuals as required in Section R381-60-8;

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(g) complete CCL new provider training no more than six months before becoming licensed; and

(h) pay any required fees, which are nonrefundable.

(2) Each 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 an applicant for a new license or a renewal does not require a fire inspection, the department shall verify the applicant's compliance with the following:

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

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

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

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

(e) exits are clearly identified;

(f) there is at least one unobstructed fire extinguisher on each level of the building, currently charged and serviced, and mounted not more than five feet above the floor;

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

(h) boiler, mechanical, and electrical panel rooms are not used for storage.

(4) If an applicant for a new license or a renewal serves food and the local health department states that a kitchen inspection is not required, the department shall verify the applicant's compliance with the following:

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

(b) there is a working thermometer in the refrigerator;

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

(d) cooks have a current food handler's permit available on-site for review by the department;

(e) cooks use hair restraints and wear clean outer clothing;

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

(g) reusable food holders, utensils, and food preparation surfaces are washed, rinsed, and sanitized before each use;

(h) chemicals are stored away from food and food service items;

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

(j) there is a working handwashing sink in the kitchen and handwashing instructions posted by the sink.

(5) Each applicant shall have six months from the time any portion of the application is submitted to finish the licensing process. If unsuccessful, the applicant shall reapply. Any resubmission must include the required documentation, payment of licensing fees, and a new inspection of the facility in order to be licensed.

(6) The department may deny an application for a license if, within the five 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 a rule violation 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, each 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) The department may grant a provider who fails to renew their license by the expiration date an additional 30 days to complete the renewal process if the provider pays a late fee.

(10) The department may deny renewal of a license for a provider who is no longer caring for children.

(11) Each 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) A provider shall submit a complete online changes request 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 type 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) Only the department may assign, transfer, or amend a license.

(15) If an applicant or provider cannot comply with a rule but can meet the intent of the rule in another way, the applicant or provider 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) Each provider shall comply with the existing rules until a variance is approved by the department.

(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) fails to allow authorized representatives of the department access to the facility to ensure compliance with this rule;
- (f) fails to submit or make available to the department any written documentation required to verify compliance with this rule;
- (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 an individual from having a license.

(5) Within ten 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 the children's 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 a child care provider to suspend services and 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 four 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 the 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 a day as provided in Section 26-39-601.

(12) The department may assess a civil money penalty and also take action to deny, place on conditional status, revoke, immediately close, or refuse to renew a license.

(13) 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 checks, civil money penalties, and other fees assessed by the department.

(14) An applicant or provider may appeal any department decision within 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 old;
- (b) pass a CCL background 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 and contact information of the individual or individuals who shall legally represent them and who shall comply with the requirements stated in Subsection R381-60-6(1).

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

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

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

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

(7) The provider shall post a current copy of 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:

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

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

(11) The provider shall ensure that each child's admission and health assessment form includes 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 individuals authorized by the parent to sign the child out from the facility;
- (e) name, address, and phone number of an individual to be contacted if an emergency happens and the provider cannot contact the parent;
- (f) any special health instructions for the caregiver; and
- (g) certification that immunizations for the child are current.

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

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

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

R381-60-7. Personnel and Training Requirements.

(1) The provider shall ensure that employees and volunteers are supervised, qualified, and trained to:

- (a) meet the needs of the children as required by rule; and
- (b) be in compliance with licensing rules.

(2) The provider shall ensure that the center has a qualified director as required by licensing rules.

(3) The provider shall ensure that the director:

- (a) is at least 21 years old;
- (b) passes a CCL background check;
- (c) receives at least 2-1/2 hours of preservice training before beginning job duties;
- (d) completes the new director training offered by the department within 60 working days of assuming director duties;
- (e) knows and follows any applicable laws and rules; and
- (f) completes at least 10 hours of child care training each year based on the facility's license date, or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year.

(4) The provider shall ensure that each new director has 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 and 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 and emotional development, and the child care environment; or 60 clock hours of equivalent training as approved by the department.

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

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

- (a) is at least 21 years old;
- (b) passes a CCL background check;
- (c) receives at least 2-1/2 hours of preservice training before beginning job duties;
- (d) knows and follows any applicable laws and rules; and
- (e) completes at least 10 hours of child care training each year based on the facility's license date, or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year.

(7) The provider shall ensure that the director or the director designee is present at the facility when 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) The provider shall ensure that caregivers:

- (a) are at least 16 years old;
- (b) pass a CCL background check;
- (c) receive at least 2-1/2 hours of preservice training before caring for children;
- (d) know and follow any applicable laws and rules;
- (e) complete at least 10 hours of child care training each year based on the facility's license date, or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year; and
- (f) do not have unsupervised contact with any child in care, including during offsite activities and transportation, if the caregivers are younger than 18 years old.

(10) The provider shall ensure that any other employees such as drivers, cooks, and clerks:

- (a) pass a CCL background check;
- (b) receive at least 2-1/2 hours of preservice training before beginning job duties;
- (c) know and follow any applicable laws and rules, and
- (d) do not have unsupervised contact with any child in care, including during offsite activities and transportation, if the employee is younger than 18 years old.

(11) The provider shall ensure that volunteers:

- (a) pass a CCL background check; and
- (b) do not have unsupervised contact with any child in care, including during offsite activities and transportation, if the volunteer is younger than 18 years old.

(12) The provider shall ensure that guests:

- (a) do not have unsupervised contact with any child in care, including during offsite activities and transportation; and
- (b) wear a guest nametag.

(13) The provider shall ensure that student interns who are registered and participating in a high school or college child care course:

- (a) do not have unsupervised contact with any child in care, including during offsite activities and transportation; and
- (b) wear a guest nametag.

(14) The provider shall ensure that parents of children in care do not have unsupervised contact with any child in care, except with their own children.

(15) The provider shall ensure that household members who are:

- (a) 12 to 17 years old pass a CCL background check and do not have unsupervised contact with any child in care, including during offsite activities and transportation; and
- (b) 18 years old or older pass a CCL background check that includes fingerprints.

(16) The provider shall ensure that individuals who provide Individualized Educational Plan (IEP) or Individualized Family Service plan (IFSP) services such as physical, occupational, or speech therapists:

- (a) provide proper identification before having access to the facility or to a child at the facility; and
- (b) have received the child's parent's permission for services to take place at the facility.

(17) The provider shall ensure that individuals from law enforcement, Child Protective Services, the department, and any similar entities provide proper identification before having access to the facility or to a child at the facility.

(18) The provider shall ensure that preservice training includes at least the following topics:

_____ (a) job description and duties;
 _____ (b) current department rule Sections R381-60-7 through R381-60-24;
 _____ (c) disaster preparedness, response, and recovery;
 _____ (d) pediatric first aid and cardio pulmonary resuscitation (CPR);
 _____ (e) children with special needs;
 _____ (f) safe handling and disposal of hazardous materials;
 _____ (g) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;
 _____ (h) principles of child growth and development, including brain development;
 _____ (i) prevention of shaken baby syndrome and abusive head trauma, and coping with crying babies;
 _____ (j) prevention of sudden infant death syndrome (SIDS) and the use of safe sleeping practices;
 _____ (k) recognizing the signs of homelessness and available assistance;
 _____ (l) a review of the information in each child's health assessment in the caregiver's assigned group, including allergies, food sensitivities, and other special needs; and
 _____ (m) an introduction and orientation to the children in care.
 _____ (19) The provider shall keep documentation of each individual's preservice training on-site for review by the department and shall ensure that documentation includes at least the following:
 _____ (a) training topics;
 _____ (b) date of the training; and
 _____ (c) total hours or minutes of training.
 _____ (20) The provider shall ensure that annual child care training includes at least the following topics:
 _____ (a) current department rule Sections R381-60-7 through R381-60-24;
 _____ (b) disaster preparedness, response, and recovery;
 _____ (c) pediatric first aid and CPR;
 _____ (d) children with special needs;
 _____ (e) safe handling and disposal of hazardous materials;
 _____ (f) the prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;
 _____ (g) principles of child growth and development, including brain development;
 _____ (h) prevention of shaken baby syndrome and abusive head trauma, and coping with crying babies;
 _____ (i) prevention of sudden infant death syndrome (SIDS) and use of safe sleeping practices; and
 _____ (j) recognizing the signs of homelessness and available assistance.
 _____ (21) The provider shall ensure that documentation of each individual's annual child care training is kept on-site for review by the department and includes the following:
 _____ (a) training topic;
 _____ (b) date of the training;
 _____ (c) name of the individual or organization that presented the training; and
 _____ (d) total hours or minutes of training.
 _____ (22) When there are children at the center, the provider shall ensure that there is at least one staff member present who can demonstrate English literacy skills needed to care for children and respond to emergencies.
 _____ (23) The provider shall ensure that at least one staff member with a current Red Cross, American Heart Association, or equivalent pediatric first aid and CPR certification is present when children are in care;

_____ (a) at the facility;
 _____ (b) in each vehicle transporting children; and
 _____ (c) at each offsite activity.
 _____ (24) The provider shall ensure that CPR certification includes hands-on testing.
 _____ (25) The provider shall ensure that the following records for each covered individual are kept on-site for review by the department:
 _____ (a) the date of initial employment or association with the program;
 _____ (b) a current pediatric first aid and CPR certification, if required in this rule; and
 _____ (c) a six-week record of the times worked each day.

R381-60-8. Background Checks.

_____ (1) Before a new covered individual becomes involved with child care in the program, the provider shall use the CCL provider portal search to:
 _____ (a) verify that the individual has a current CCL background check; and
 _____ (b) associate that individual with their facility if the covered individual appears in the search.
 _____ (2) Before a new covered individual who does not appear in the CCL provider portal search becomes involved with child care in the program, the provider shall:
 _____ (a) have the individual submit an online background check form and fingerprints for individuals age 18 years old and older;
 _____ (b) authorize the individual's background check through the CCL provider's portal;
 _____ (c) pay any required fees; and
 _____ (d) receive written notice from CCL that the individual passed the background check.
 _____ (3) The department may include a covered individual by name on the CCL provider portal and consider that covered individual's background check to be current if the covered individual has:
 _____ (a) passed a CCL background check;
 _____ (b) resided in Utah since the last background check was completed; and
 _____ (c) been associated with an active, CCL approved child care facility within the past 180 days.
 _____ (4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall:
 _____ (a) ensure that an online background check form is submitted;
 _____ (b) authorize the child's background check through the CCL provider's portal; and
 _____ (c) pay any required fees.
 _____ (5) The provider shall ensure that fingerprints are prepared by a local law enforcement agency or an agency approved by local law enforcement.
 _____ (6) If fingerprints are submitted electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows the department's guidelines.
 _____ (7) The department may deny a covered individual from being involved with child care for any of the following background findings:
 _____ (a) LIS supported findings;
 _____ (b) the covered individual's name appears on the Utah or national sex offender registry;
 _____ (c) any felony convictions; or
 _____ (d) for any of the reasons listed under Subsection R381-60-8(8).

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(8) The department may also deny a covered individual from being involved with child care for any of the following convictions regardless of severity:

- (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 an individual;
- (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.

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

(10) If the provider fails to pass a background check, the department may suspend or deny their license until the reason for the denial is resolved.

(11) 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.

(12) 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 to the Department of Public Safety.

(13) If a covered individual disagrees with a supported finding on the Department of Human Services Licensing Information System (LIS), the covered individual may appeal the finding to the Department of Human Services.

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

(15) The Executive Director of the Department of Health may overturn a background check denial if the Executive Director determines that the nature of the background finding or mitigating circumstances do not pose a risk to children.

R381-60-9. Facility.

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

(2) The department may include as indoor space per child 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 materials for children.
- (3) The department may not include the following areas 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 department may limit the maximum allowed capacity for a child care facility based on local ordinances.

(5) The provider shall ensure that the number of children in care at any given time does 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 five working days and follow required procedures for remediation of the lead hazard.

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

(8) The provider shall ensure that rooms and areas have adequate light intensity for the safety of the children and the type of activity being conducted.

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

(10) The provider shall ensure that there is a working telephone at the facility, in each vehicle while transporting children, and during offsite activities.

(11) The provider shall ensure that there is at least one working handwashing sink used exclusively for handwashing that is accessible to the children.

(12) The provider shall ensure that:

(a) there is at least one working toilet and one working sink for each group of 15 children younger than five years old in the center who are toilet trained; and

(b) there is at least one working toilet and one working sink for each group of 25 school-age children in the center.

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

(14) If there is an outdoor area used by the children in care, the provider shall ensure that the area:

(a) is safely accessible to children;

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

(c) is enclosed within a fence, wall, or solid natural barrier that is at least four feet high and that has no gap five by five inches or greater in or under.

(15) The provider shall ensure that when outdoors:

(a) children are in an enclosed area, except during offsite activities; and

(b) there is shade available to protect the children from excessive sun and heat.

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

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

(b) maintain the pool in a safe manner; and

(c) when not in use, cover the pool with a commercially-made safety enclosure that is installed according to the manufacturer's instructions, or enclose the pool within at least a four-foot-high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises.

(17) The provider shall maintain buildings and outdoor areas in good repair and safe condition including:

(a) ceilings, walls, and floor coverings;

(b) lighting, bathroom, and other fixtures;

(c) draperies, blinds, and other window coverings;

(d) indoor and outdoor play equipment;

(e) furniture, toys, and materials accessible to the children; and

(f) entrances, exits, steps, and walkways including keeping them free of ice, snow, and other hazards.

(18) The provider shall ensure that accessible raised decks or balconies that are five feet or higher, and open stairwells that are five feet or deeper have protective barriers that are at least three feet high.

(19) If the facility is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, the department may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with the rules, except when 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.

R381-60-10. 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

<u># of Caregivers</u>	<u># of Children</u>	<u>Limits for Mixed Ages</u>
1	12 per group	No children younger than age 2
1	8 per group	2 children younger than age 2
1	6 in the facility	3 children younger than age 2
2	24 per group	No children younger than age 2
2	16 per group	4 children younger than age 2

(2) The provider shall ensure that there are at least two caregivers with a mixed-age group if:

(a) there are more than six children in the facility;

(b) there are more than two infants or toddlers included in the mixed-age group; and

(c) the group has more than six children total.

(3) When caring for children younger than two years old in single-age groups, the provider shall ensure that:

(a) there are no more than four children with one caregiver; and

(b) children are cared for in an area that is physically separated from older children.

(4) If there is only one caregiver in the facility and no children younger than two years old are present, the provider can be temporarily out of ratio if:

(a) a second caregiver arrives within 20 minutes from when the 13th child arrived, and

(b) the total number of children present does not exceed 16.

(5) The provider shall include the provider's and employees' children age four years old or older in care:

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

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

(6) The provider may include caregivers, student interns who are registered in a high school or college child care course, and volunteers who are 16 or 17 years old in the caregiver-to-child ratio.

(7) The provider shall ensure that guests do not count in caregiver-to-child ratios.

R381-60-11. Child Supervision and Security.

(1) The provider shall ensure that caregivers provide and maintain active supervision of each child, including:

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

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

(c) caregivers know the number of children in their care at any time;

(d) caregivers' attention is focused on the children and not on caregivers' personal interests;

(e) caregivers are aware of the entire group of children even when interacting with a smaller group or an individual child; and

(f) caregivers position themselves so each child in their assigned group is actively supervised.

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

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

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

(c) cameras or mirrors are positioned so that the staff member can see and hear each child;

(d) there is an open door without a barrier, such as a gate, between the napping room and the non-napping room; and

(e) the staff member moves children who wake up to the non-napping room.

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

(4) The provider shall ensure that parents have access to their child and the areas used to care for their child when their child is in care.

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

(a) each child is signed in and out;

(b) only parents or individuals with written authorization from the parent may sign out a child;

(c) photo identification is required if the individual signing the child out is unknown to the provider;

(d) individuals signing children in and out use identifiers, such as a signature, initials, or electronic code;

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

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

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

- (a) the individual giving verbal authorization; and
- (b) the individual picking up the child.

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

R381-60-12. Child Guidance and Interaction.

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

(2) The provider shall inform parents, children, and those who interact with the children of the center's behavioral expectations and how any misbehavior will be handled.

(3) The provider shall ensure that individuals who interact with the children guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.

(4) The provider shall ensure that caregivers use gentle, passive restraint with children only when it is needed to protect children from injuring themselves or others, or to stop them from destroying property.

(5) The provider shall ensure that interactions with the children do not include:

- (a) any form of corporal punishment or any action that produces physical pain or discomfort such as hitting, spanking, shaking, biting, or pinching;
- (b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint;
- (c) shouting at children;
- (d) any form of emotional abuse;
- (e) forcing or withholding food, rest, or toileting; or
- (f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.

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

R381-60-13. Child Safety and Injury Prevention.

(1) The provider shall ensure that the building, outdoor area, toys, and equipment are used in a safe manner and as intended by the manufacturer to prevent injury to children.

(2) The provider shall ensure that poisonous and harmful plants are inaccessible to children.

(3) The provider shall ensure that sharp objects, edges, corners, or points that could cut or puncture skin are inaccessible to children.

(4) The provider shall ensure that choking hazards are inaccessible to children younger than three years old.

(5) The provider shall ensure that strangulation hazards such as ropes, cords, chains, and wires attached to a structure and long enough to encircle a child's neck are inaccessible to children.

(6) The provider shall ensure that tripping hazards such as unsecured flooring, rugs with curled edges, or cords in walkways are inaccessible to children.

(7) The provider shall ensure that empty plastic bags large enough for a child's head to fit inside, latex gloves, and balloons are inaccessible to children younger than five years old.

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

(9) The provider shall ensure that toxic or hazardous chemicals such as cleaners, insecticides, lawn products, and flammable, corrosive, and reactive materials are:

- (a) inaccessible to children;
- (b) used according to manufacturer instructions;

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

- (d) disposed of properly.

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

- (a) matches or cigarette lighters;
- (b) open flames;
- (c) hot wax or other hot substances; and
- (d) when in use, portable space heaters, wood burning stoves, and fireplaces.

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

- (a) live electrical wires; and
- (b) for children younger than five years old, 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, the provider shall ensure that firearms such as guns, muzzleloaders, rifles, shotguns, hand guns, pistols, and automatic guns are:

- (a) locked in a cabinet or area using a key, combination lock, or fingerprint lock; and
- (b) stored unloaded and separate from ammunition.

(13) The provider shall ensure that weapons such as paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace are inaccessible to children.

(14) The provider shall ensure that alcohol, illegal substances, and sexually explicit material are inaccessible, and not used on the premises, during offsite activities, or in center vehicles any time a child is in care.

(15) The provider shall ensure that an outdoor source of drinking water, such as individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain is available to each child when the outside temperature is 75 degrees or higher.

(16) The provider shall ensure that areas accessible to children are free of heavy or unstable objects that children could pull down on themselves, such as furniture, unsecured televisions, and standing ladders.

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

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

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

(20) The provider shall ensure that tobacco, e-cigarettes, e-juice, e-liquids, and similar products are inaccessible and, in compliance with the Utah Indoor Clean Air Act, 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, Response, and Recovery.

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

(a) includes procedures for evacuation, relocation, shelter in place, lockdown, communication with and reunification of families, and continuity of operations;

(b) includes procedures for accommodations for infants and toddlers, children with disabilities, and children with chronic medical conditions;

(c) is available for review by parents, staff, and the departments during business hours; and

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

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

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

(4) The provider shall conduct fire evacuation drills monthly and make sure drills include a complete exit of each child, staff, and volunteers from the building.

(5) 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 individual supervising the drill;

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

(e) any problems encountered and remediation.

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

(7) 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 individual supervising the drill; and

(e) any problems encountered and remediation.

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

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

(10) The provider shall:

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

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

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

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

(12) If a life-threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb happens, the provider shall:

(a) call emergency personnel immediately;

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

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

(13) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall:

(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 five business days of the incident.

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

R381-60-15. Health and Infection Control.

(1) The provider shall keep the building, furnishings, equipment, and outdoor area clean and sanitary including:

(a) walls and flooring clean and free of spills, dirt, and grime;

(b) areas and equipment used for the storage, preparation, and service of food clean and sanitary;

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

(d) the building and grounds free of a build-up of litter, trash, and garbage;

(e) frequently touched surfaces, including doorknobs and light switches, cleaned and sanitized; and

(f) the facility free of animal feces.

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

(3) The provider shall clean and sanitize any toys and materials used by children:

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

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

(c) after being contaminated by a body fluid.

(4) The provider shall ensure that fabric toys and items such as stuffed animals, cloth dolls, pillow covers, and dress-up clothes are machine washable and if used, washed at least each week or as needed.

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

(6) The provider shall clean and sanitize water play tables or tubs daily if used by the children.

(7) The provider shall clean and sanitize bathroom surfaces including toilets, sinks, faucets, toilet and sink handles, and counters each day the facility is open for business.

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

(9) The provider shall keep toilet paper in a dispenser that is accessible to children.

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

(11) The provider shall ensure that staff and volunteers wash their hands thoroughly with liquid soap and running water:

(a) upon arrival;

(b) before handling or preparing food or bottles;

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

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

(e) after contact with a body fluid;

(f) when coming in from outdoors; and

(g) after cleaning up or taking out garbage.

(12) The provider shall ensure that caregivers teach children how to wash their hands thoroughly and oversee handwashing when possible.

(13) The provider shall ensure that children wash their hands thoroughly with liquid soap and running water:

- (a) upon arrival;
- (b) before and after eating meals and snacks;
- (c) after using the toilet;
- (d) after contact with a body fluid;
- (e) before using a water play table or tub; and
- (f) when coming in from outdoors.

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

(15) The provider shall store personal hygiene items, such as toothbrushes, combs, and hair accessories separate, so they do not touch each other, and ensure they are not shared or they are sanitized between each use.

(16) The provider shall ensure that pacifiers, bottles, and nondisposable drinking cups are:

- (a) labeled with each child's name or individually identified; and
- (b) not shared, or washed and sanitized before being used by another child.

(17) The provider shall ensure that a child's clothing is promptly changed if the child has a toileting accident.

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

- (a) not rinsed or washed at the center;
- (b) placed in a leakproof container that is labeled with the child's name; and
- (c) returned to the parent, or thrown away with parental consent.

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

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

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

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

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

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

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

- (a) does not disclose any personal identifiable information;
- (b) is posted in a conspicuous place where it can be seen by all parents;
- (c) is posted and dated on the same day that the disease or parasite is discovered; and
- (d) remains posted for at least five business days.

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

- (a) individuals who prepare food in the kitchen do not change diapers or help in toileting children;
- (b) caregivers who care for diapered children only prepare food for the children in their care, and they do 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, coughing, or vomiting do not prepare or serve foods.

R381-60-16. Food and Nutrition.

If food service is provided:

(1) The provider shall offer a meal or snack to each child age two years old and older at least once every three hours.

(2) If food for children's meals or snacks is supplied by the provider, the provider shall ensure that the meal service meets local health department food service regulations.

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

- (a) is aware of the children in their assigned group who have food allergies or sensitivities; and
- (b) ensures that the children are not served the food or drink they are allergic or sensitive to.

(4) The provider shall not place children's food on a bare table, and shall serve children's food on dishes, napkins, or sanitary highchair trays, except an individual finger food such as a cracker, which may be placed directly in a child's hand.

(5) If parents bring food and drink for their child's use, the provider shall ensure that the food is:

- (a) labeled with the child's name;
- (b) refrigerated if needed; and
- (c) consumed only by that child.

R381-60-17. Medications.

(1) The provider shall lock nonrefrigerated medications or store them at least 48 inches above the floor.

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

(3) If parents supply any over-the-counter or prescription medications, the provider shall ensure those medications are:

- (a) labeled with the child's full name;
- (b) kept in the original or pharmacy container;
- (c) have the original label; and
- (d) have child-safety caps.

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

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

- (a) the name of the child;
- (b) the name of the medication;
- (c) written instructions for administration; and
- (d) the parent signature and the date signed.
- (6) The provider shall ensure that instructions for administering the medication include at least:
 - (a) the dosage;
 - (b) how the medication will be given;
 - (c) the times and dates to administer the medication; and
 - (d) the disease or condition being treated.
- (7) If the provider supplies an over-the-counter medication for children's use, the provider shall ensure that the medication is not administered to any child without previous parental consent for each instance it is given. The provider shall ensure that the consent is:
 - (a) written; or
 - (b) verbal, if the date and time of the consent is documented and signed by the parent upon picking up their child.
- (8) The provider shall ensure that the staff administering the medication:
 - (a) washes their hands;
 - (b) check the medication label to confirm the child's name if the parent supplied the medication;
 - (c) checks the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer; and
 - (d) administers the medication.
- (9) The provider shall ensure that immediately after administering a medication, the staff giving the medication records the following information:
 - (a) the date, time, and dosage of the medication given;
 - (b) any error in administering the medication or adverse reactions; and
 - (c) their signature or initials.
- (10) The provider shall report to the parent a child's adverse reaction to a medication or error in administration of the medication immediately upon recognizing the reaction or error, or after notifying emergency personnel if the reaction is life-threatening.
- (11) The provider shall notify the parent before the time a medication needs to be given to a child if the provider chooses not to administer medication as instructed by the parent.
- (12) The provider shall keep a six-week record of medication permission and administration forms on-site for review by the department.

R381-60-18. Activities.

- (1) The provider shall offer daily activities that support each child's healthy physical, social, emotional, cognitive, and language development.
- (2) If an approved outdoor area is available, the provider shall ensure that daily activities include outdoor play as weather and air quality allow.
- (3) The provider shall ensure that physical development activities include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every two hours children spend in the program.
- (4) The provider shall ensure that toys, materials, and equipment needed to support children's healthy development are available to the children.
- (5) Except for occasional special events, the provider shall ensure that the children's primary screen time activity on media such as television, cell phones, tablets, and computers is:
 - (a) not allowed for children zero to 17 months old;

- (b) limited for children 18 months to four years old to one hour a day, or five hours a week with a maximum screen time of two hours per activity; and
- (c) planned to address the needs of children five to 12 years old.
- (6) If swimming activities are offered or if wading pools are used, the provider shall ensure that:
 - (a) the parent gives permission before their child in care uses the pool;
 - (b) caregivers stay at the pool supervising when a child is in the pool or has access to the pool, and when an accessible pool has water in it;
 - (c) diapered children wear swim diapers when they are in the pool;
 - (d) wading pools are emptied and sanitized after use by each group of children;
 - (e) if the pool is over four feet deep, there is 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 do not count toward the caregiver-to-child ratio.
- (7) If offsite activities are offered, the provider shall ensure that:
 - (a) the parent gives written consent before each activity;
 - (b) the required caregiver-to-child ratio and supervision are maintained during the entire activity;
 - (c) first aid supplies, including at least antiseptic, bandages, and tweezers are available;
 - (d) children wear or carry with them the name and phone number of the center;
 - (e) children's names are not used on nametags, t-shirts, or in other visible ways; and
 - (f) there is a way for caregivers and children to wash their hands with soap and water, or with wet wipes and hand sanitizer if there is no source of running water.
- (8) The provider shall ensure a caregiver with the children takes the written emergency information and releases for each child in the group on each offsite activity, and that the information includes at least:
 - (a) the child's name;
 - (b) the parent's name and phone number;
 - (c) the name and phone number of an individual to notify if an emergency happens and 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 provider shall ensure that the highest designated play surface on stationary play equipment used by infants or toddlers does not exceed three feet in height.
- (3) The provider shall ensure that swings used by infants or toddlers have enclosed seats.
- (4) The provider shall ensure that stationary play equipment has a surrounding use zone that extends from the outermost edge of the equipment and that, with the exception of swings, stationary play equipment that is:
 - (a) used by infants or toddlers has at least a three-foot use zone if any designated play surface is higher than 18 inches;

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

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

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

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

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

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

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

(8) The provider shall ensure that the use zone for a merry-go-round extends:

(a) at least three feet in any direction from its outermost edge if the merry-go-round is used by infants or toddlers; or

(b) at least six feet in any direction from its outermost edge if the merry-go-round is used by preschoolers or school-age children.

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

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

(b) at least six feet from the outermost edge of the rocker when at rest if the seat is higher than 20 inches, and the rocker is used by preschoolers or school-age children.

(10) The provider shall ensure that the following use zones do 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.

(11) Unless prohibited in Subsection R381-60-19(10), the provider shall ensure that the use zones of play equipment only overlap when:

(a) the equipment is used by infants or toddlers, and there is at least three feet between the pieces of equipment; or

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

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

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

(14) If sand, gravel, or shredded tires are used as protective cushioning, the provider shall:

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

(b) if the material cannot be loosened due to extreme weather conditions, not allow children to play on the equipment until the material can be loosened to the required depth; and

(c) ensure that the depth of the material meets the guidelines in Table 2.

TABLE 2

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

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Fine	Coarse	Fine	Medium	Shredded
	Sand	Sand	Gravel	Gravel	Tires
Up to 5' high	6"	6"	6"	6"	6"
Over 5' up to 6'	6"	9"	6"	9"	6"
Over 6' up to 9'	9"	not allowed	9"	not allowed	6"
Over 9' up to 10'	not allowed	not allowed	9"	not allowed	6"
Over 10' up to 12'	not allowed	not allowed	not allowed	not allowed	6"

(15) If shredded wood products are used as protective cushioning, the provider shall:

(a) keep on-site for review by the department documentation from the manufacturer that the wood product is protective cushioning;

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

(c) ensure the depth of the shredded wood meets the guidelines in Table 3.

TABLE 3

Depths of Protective Cushioning Required for Shredded Wood Products

Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point	Engineered	Wood	Double	Shredded
	Wood Fibers	Chips	Bark	Mulch
Up to 6' high	6"	6"	6"	6"
Over 6' up to 7'	9"	6"	6"	9"
Over 7' up to 11'	9"	9"	9"	9"
Over 11'	9"	not allowed	not allowed	not allowed

(16) If a unitary cushioning is used, the provider shall maintain on-site for review by the department documentation from the manufacturer that the material is cushioning for playgrounds.

(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.

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

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

(b) 30 inches above the floor or ground and used by preschoolers has 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 has a protective barrier that is at least 38 inches high.

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

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

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

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

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

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

(25) The provider shall ensure that there are no tripping hazards such as concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.

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

(a) is enclosed with a roof or top;

(b) is equipped with safety restraints;

(c) has a current vehicle registration;

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

(e) contains first aid supplies, including at least antiseptic, band-aids, and tweezers.

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

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

(b) properly installed; and

(c) in safe condition and working order.

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

(a) is at least 18 years old;

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

(c) has with them the written emergency contact information for each child being transported;

(d) ensures that each child being transported is in an individual safety restraint that is used according to Utah law;

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

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

(g) ensures that children stay seated while the vehicle is moving;

(h) never leaves the keys in the ignition when not in the driver's seat; and

(i) ensures that the vehicle is locked during transport.

(5) If 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 the children;

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

(d) a caregiver with the children has written emergency contact information and releases for the children being transported.

R381-60-21. Animals.

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

(2) The provider shall ensure that there is 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 individual.

(3) The provider shall ensure that animals at the facility are clean and free of obvious disease or health problems that could adversely affect children.

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

(5) The provider shall ensure that children younger than five years old do 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 provider shall ensure that the children wash their hands immediately after cleaning the animal or equipment.

(7) The provider shall ensure that children and staff wash their hands immediately after playing with or touching reptiles and amphibians.

(8) The provider shall ensure that dogs, cats, and ferrets that are housed at the facility have current rabies vaccinations.

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

R381-60-22. Rest and Sleep.

If sleeping equipment is used for rest and sleep time:

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

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

(3) The provider shall ensure that each crib:

(a) has a tight-fitting mattress;

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

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

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

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

(4) When in use, the provider shall place sleeping equipment such as cribs, cots, and mats at least two feet apart.

(5) The provider shall ensure that sleeping equipment does not block exits.

(6) The provider shall clean and sanitize sleeping equipment before each use.

R381-60-23. Diapering.

If the provider accepts children who wear diapers:

(1) The provider shall post diapering procedures at each diapering station and ensure that they are followed.

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

(a) checked at least once every two hours;

(b) promptly changed if wet or soiled; and

(c) checked as soon as a sleeping child awakens.

NOTICES OF PROPOSED RULES

(3) The provider shall ensure that caregivers change children's diapers at a diapering station and not on surfaces used for any other purpose.

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

(5) The provider shall ensure that each diapering station is equipped with railings to prevent a child from falling when being diapered.

(6) The provider shall ensure that caregivers do not leave children unattended on the diapering surface.

(7) The provider shall ensure that caregivers 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.

(8) The provider shall ensure that caregivers who change diapers wash their hands after each diaper change.

(9) The provider shall ensure that caregivers 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.

(10) Each day, the provider shall clean and sanitize indoor containers where wet and soiled diapers are placed.

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

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

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

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

R381-60-24. Infant and Toddler Care.

If the provider cares for infants or toddlers:

(1) The provider shall ensure that each awake infant and toddler receives 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 six months old.

(3) The provider shall ensure that caregivers 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, the provider shall make safe toys available and accessible for each infant and toddler to engage in play.

(5) The provider shall ensure that mobile infants and toddlers have freedom of movement in a safe area.

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

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

(8) The provider shall make objects made of styrofoam inaccessible to infants and toddlers.

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

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

(a) labeled with the child's name;

(b) labeled with the date and time of preparation or opening of the container, 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, the provider shall ensure that a caregiver holds the infant during bottle feeding and that bottles are not propped.

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

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

(14) The provider shall ensure that caregivers cut solid foods for infants into pieces no larger than 1/4 inch in diameter, and cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.

(15) The provider shall ensure that infants sleep in equipment designed for sleep such as a crib, bassinet, porta-crib or playpen, and that infants are not 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) The provider shall place infants on their backs for sleeping unless there is documentation from a health care provider requiring a different sleep position.

(17) The provider shall not place soft toys, loose blankets, or other objects in sleep equipment while in use by sleeping infants.

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

Date of Enactment or Last Substantive Amendment: [February 25,] 2020

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

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal and Reenact		
Utah Admin. Code Ref (R no.):	R381-70	Filing No. 52830

Agency Information

1. Department:	Health		
Agency:	Child	Care	Center Licensing Committee
Building:	Highland		
Street address:	3760 South Highland Drive		
City, state:	Salt Lake City, UT 84114		
Mailing address:	PO Box 142003		
City, state, zip:	Salt Lake City, UT 84114-2003		
Contact person(s):			
Name:	Phone:	Email:	
Simon Bolivar	801-803-4618	sbolivar@utah.gov	
Please address questions regarding information on this notice to the agency.			

General Information

2. Rule or section catchline:
R381-70. Out of School Time Child Care Programs
3. Purpose of the new rule or reason for the change:
This repeal and reenact is filed to accommodate all required technical changes suggested by the governor's office and many others needed by the Department of Health procedures. These changes will make this rule be in compliance with the state rulewriting process. Since the required technical changes are many, a repeal and reenact will make this process simpler to be accomplished.
4. Summary of the new rule or change:
Most of the proposed changes are technical. They include re-writing sentences in active voice, deleting or adding punctuation, renumbering as needed, spelling, proper word choice, adding or deleting words to clarify language, and negative into positive sentences. The Child Care Center Licensing Committee (Agency) is also deleting unnecessary language, clarifying training topics as required by federal regulations and deleting required face-to-face training components, clarifying supervision for 16- and 17-year-old caregivers, clarifying room measurements, and clarifying the emergency preparedness and response language to delete the need for the Health and Safety Plan template.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
The Agency does not anticipate any additional costs or savings due to the proposed rule changes because the changes are mostly technical and do not add or delete requirements that may affect the budget.
B) Local governments:
These proposed amendments are not expected to have any fiscal impact on local governments' revenues or expenditures because the changes are mostly technical and do not add or delete requirements that may affect local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
The majority of child care centers in the state operate as small businesses. However, the Agency does not expect any costs or savings associated with the proposed rule amendments because the changes are mostly technical and do not add or delete requirements that may affect them.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The Agency does not anticipate any additional costs or savings to non-small businesses due to the proposed rule

changes because the changes are mostly technical and do not add or delete requirements that may affect them.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The Agency does not anticipate any additional costs or savings to persons other than small businesses, non-small businesses, state, or local entities due to the proposed rule changes because the changes are mostly technical and do not add or delete requirements that may affect them.

F) Compliance costs for affected persons:

The Agency does not anticipate any additional costs due to the proposed rule changes because the changes are mostly technical and do not add or delete requirements that may affect them.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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
H) Department head approval of regulatory impact analysis:			
I have reviewed and approved this fiscal analysis. Joseph K. Miner, MD, Executive Director			
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:			
This repeal and reenact is filed to accommodate all required technical changes suggested by the governor's office and many others needed by the Department of Health procedures. These changes will make this rule be in compliance with the state rulewriting process. Since the required technical changes are many, a repeal and reenact will make this process simpler to be accomplished. The changes delete unnecessary language, clarify training topics as required by federal regulations and delete required face-to-face training components, clarify supervision for 16- and 17-year-old caregivers, clarify room measurements, and clarify the emergency preparedness and response language to delete the need for the Health and Safety Plan template.			
Simon Bolivar worked closely with Holly Langton in the governor's office to ensure that the office agrees that the new rule language conforms to the requirements in the Rulewriting Manual.			
There is no fiscal impact on businesses because there are no substantive changes to requirements on childcare businesses.			
B) Name and title of department head commenting on the fiscal impacts:			
Joseph K. Miner, MD, Executive Director			

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):		
Subsection		
26-39-203(1)(a)		

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)	
A) Comments will be accepted until:	08/14/2020

10. This rule change MAY become effective on:	08/21/2020
NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.	

Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD Executive Director	Date:	06/18/2020
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R381. Health, Child Care Center Licensing Committee.

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

~~**R381-70 1. Legal Authority and Purpose.**~~

~~(1) This rule is enacted and enforced in accordance with Utah Code, Title 26, Chapter 39.~~

~~(2) This rule establishes the foundational standards necessary to protect the health and safety of children in out of school time programs and defines the general procedures and requirements to obtain and maintain a license.~~

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

~~(1) "Applicant" means a person or business who has applied for a new or a renewal of a license, certificate, or exemption from Child Care Licensing.~~

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

~~(3) "Background Finding" means information in a background check that may result in a denial from Child Care Licensing.~~

~~(4) "Background Check Denial" means that an individual has failed the background 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.~~

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

~~(9) "CCL" means the Child Care Licensing Program in the Department of Health that is delegated with the responsibility to enforce the Utah Child Care Licensing Act.~~

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

~~(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.~~

~~(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.~~
~~(13) "CPSC" means the Consumer Product Safety Commission.~~
~~(14) "Department" means the Utah Department of Health.~~
~~(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.~~
~~(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.~~
~~(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.~~
~~(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.~~
~~(19) "Facility" means a program or the premises approved by the Department and licensed by Child Care Licensing.~~
~~(20) "Group" means the children who are assigned to and supervised by one or more staff members.~~
~~(21) "Group Size" means the number of children in a group.~~
~~(22) "Guest" means an individual who is not a covered individual and is at the facility with the provider's permission.~~
~~(23) "Health Care Provider" means a licensed health professional, such as a physician, dentist, nurse practitioner, or physician's assistant.~~
~~(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)~~
~~(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.~~
~~(26) "Infectious Disease" means an illness that is capable of being spread from one person to another.~~
~~(27) "Involved with Children" means to do any of the following at or for an out-of school-time program:~~
~~(a) supervise or be assigned to work with children;~~
~~(b) volunteer;~~
~~(c) own, operate, direct;~~
~~(d) reside;~~
~~(e) count in the caregiver to child ratio; or~~
~~(f) have unsupervised contact with a child in care.~~
~~(28) "License" means a license issued by the Department to provide out of school time program services.~~
~~(29) "Licensee" means the legally responsible person or business that holds a valid license from Child Care Licensing.~~
~~(30) "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.~~

~~(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)~~
~~(32) "Over the Counter Medication" means medication that can be purchased without a written prescription including herbal remedies, vitamins, and mineral supplements.~~
~~(33) "Parent" means the parent or legal guardian of a child in the program.~~
~~(34) "Person" means an individual or a business entity.~~
~~(35) "Physical Abuse" means causing nonaccidental physical harm to a child.~~
~~(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.~~
~~(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.~~
~~(38) "Protective Cushioning" means a shock absorbing surface under and around play equipment that reduces the severity of injuries from falls.~~
~~(39) "Provider" means the legally responsible person or business that holds a valid license from Child Care Licensing.~~
~~(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.~~
~~(41) "Related Child" means a child for whom a provider is the parent, legal guardian, step parent, grandparent, step grandparent, great grandparent, sibling, step sibling, aunt, step aunt, great aunt, uncle, step uncle, or great uncle.~~
~~(42) "Room" will be defined as follows:~~
~~When a large room is divided into smaller rooms or areas with barriers such as furniture or with half walls, the room or area will be considered:~~
~~(a) One room, when the room is divided by a solid barrier that is 24 inches or less, whether the barrier is movable or immovable.~~
~~(b) One room, when the room is divided by a solid barrier that is between 25 and 40 inches in height and there is an opening in the barrier through which caregivers and children can move freely.~~
~~(c) Two rooms, when the room is divided by a solid barrier that is between 25 and 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked such as with a child safety gate. This applies to a diaper changing station that is located behind a closed gate.~~
~~(d) Two rooms, when the room is divided by a solid barrier that is over 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked such as with a child safety gate. If there is an opening through which caregivers and children can move freely and if the opening is not blocked, refer to the instructions for a large opening, archway, or doorway.~~
~~When two rooms or areas are connected by a large opening, archway, or doorway, the rooms or areas will be considered:~~
~~(e) One room, when the width of the opening or archway is equal to or greater than the combined width of the walls on each side of the opening or archway in the larger of the two rooms or areas,~~

and there is no furniture or other dividers blocking the opening or archway. Otherwise this will be considered two rooms.

(f) Two rooms, when the width of the opening or archway is smaller than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas.

When in outdoor areas separated by interior fences, consider it:

(g) One area, when the interior fence is 24 inches or lower in height, whether or not the fence has an opening.

(h) One area when the interior fence is 40 inches or lower in height with an opening through which caregivers and children can move freely.

(i) Two areas, when the interior fence is higher than 24 inches and there is no opening.

(j) Two areas, when the interior fence is higher than 40 inches whether or not the fence has an opening.

(43) "Sanitize" means to use a chemical product to remove soil and bacteria from a surface or object.

(44) "School Age Child" means a child age 5 through 12 years old.

(45) "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.

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

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

(48) "Staff to Child Ratio" means the number of staff responsible for a specific number of children.

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

(a) a sandbox;

(b) a stationary circular tricycle;

(c) a sensory table; or

(d) a playhouse that sits on the ground or floor and has no attached equipment, such as a slide, swing, or climber.

(50) "Strangulation Hazard" means something on which a child's clothes or drawstrings could become caught or something in which a child could become entangled such as:

(a) a protruding bolt end that extends more than 2 threads beyond the face of the nut;

(b) hardware that forms a hook or leaves a gap or space between components such as a protruding open S-hook; or

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

(51) "Substitute" means an individual who temporarily assumes the responsibilities to supervise and work with the children when the assigned staff member is not present.

(52) "Unrelated Child" means a child who is not a "related child" as defined in R381-70-2(41).

(53) "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 check.

(54) "Use Zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted

movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.

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

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

R381-70-3. License Required.

(1) A person or persons shall be licensed as an out-of-school-time program if they provide services:

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

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

(c) for 5 or more qualifying children;

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

(e) on an ongoing basis, on 3 or more days a week and for 30 or more days in a calendar year;

(f) to children who are at least 5 years of age; and

(g) for direct or indirect compensation.

(2) The Department may not license, nor is a license required for:

(a) a person who serves related children only; or

(b) a person who provides services on a sporadic basis only.

(3) A provider may not be licensed to provide child care in a facility that is also licensed to offer foster or respite care services, or another licensed or certified human services program, unless the part of the building requesting a CCL license is physically separated from the other building services.

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;

(f) a copy of a completed Department health and safety plan;

(g) CCL background checks for all covered individuals as required in R381-70-8;

(h) new provider training completion no more than six months before the date of the application; 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 verify compliance with the following:

(a) address numbers and/or letters shall be readable from the street;

(b) exit doors shall operate properly and shall be well maintained;

(c) obstructions in exits, aisles, corridors, and stairways shall be removed;

(d) exit doors shall be unlocked from the inside during business hours;

(e) exits shall be clearly identified;

~~(f) there shall be at least one unobstructed fire extinguisher on each level of the building, currently charged and serviced, and mounted not more than 5 feet above the floor;~~

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

~~(h) boiler, mechanical, and electrical panel rooms shall not be used for storage.~~

~~(4) If the 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 verify 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.~~

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~~(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 checks, civil money penalties, and other fees assessed by the Department.~~

~~(15) An applicant or provider may appeal any Department decision within 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 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.~~

~~(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.~~

~~(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.~~
- ~~(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) 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 ensure that all employees and volunteers 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 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 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 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 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 check;~~
 - ~~(b) receive at least 2.5 hours of preservice training before beginning job duties;~~
 - ~~(c) have knowledge of and follow all applicable laws and rules, and~~
 - ~~(d) not have unsupervised contact with any child in the program if the employee is younger than 16 years of age.~~
 - ~~(12) Volunteers shall:~~
 - ~~(a) pass a CCL background 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 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 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 check unless involved with children in the program.~~
 - ~~(16) Household members who are:~~
 - ~~(a) 12 to 17 years old shall pass a CCL background check;~~
 - ~~(b) 18 years of age or older shall pass a CCL background check that includes fingerprints; and~~

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~~(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 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 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 current first aid and CPR certification, if required in rule; and~~

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

R381-70-8. Background Checks.

~~(1) Before a new covered individual becomes involved with child care in the program, the provider shall use the CCL provider portal search to:~~

~~(a) verify that the individual has a current CCL background check, and~~

~~(b) associate that individual with their facility.~~

~~(2) Before a new covered individual who does not show in the CCL provider portal search becomes involved with child care in the program, the provider shall:~~

~~(a) have the individual submit an online background check form and fingerprints for individuals age 18 years and older;~~

~~(b) authorize the individual's background check through the CCL provider's portal;~~

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

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

~~(3) A covered individual without a current background check will not show in the CCL provider portal search. The Department may not consider a covered individual's background check current when the covered individual has:~~

~~(a) failed to pass a CCL background check;~~

~~(b) moved outside of Utah; or~~

~~(c) not been associated with an active, CCL approved child care facility for the past 180 days.~~

~~(4) Within 10 working days from when a child who resides in the facility turns 12 years old, the provider shall:~~

~~(a) ensure that an online background check form is submitted;~~

~~(b) authorize the child's background check through the CCL provider's portal, and~~

~~(c) pay all required 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) 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, or~~

~~(d) for any of the reasons listed under R381-100-8(8).~~

~~(8) 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.~~

~~(9) 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 check was conducted.~~

~~(10) 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.~~

~~(11) If the provider has a background check denial, the Department may suspend or deny their license until the reason for the denial is resolved.~~

~~(12) 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.~~

~~(13) 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.~~

~~(14) 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.~~

~~(15) 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.~~

~~(16) 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.

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 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.~~

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_____ (20) Whenever there are children in the outdoor area, there shall be shade available to protect them from excessive sun and heat.

_____ (21) If there is a swimming pool on the premises that is not emptied after each use:

_____ (a) the provider shall meet applicable state and local laws and ordinances related to the operation of a swimming pool and maintain the pool in a safe manner; and

_____ (b) when not in use, the pool shall be enclosed within at least a 4 foot high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises, or covered with an approved enclosure that meets the ASTM F1346 standard.

_____ (22) The provider shall maintain buildings and outdoor areas in good repair and safe condition including:

_____ (a) ceilings, walls, and floor coverings;

_____ (b) lighting, bathroom, and other fixtures;

_____ (c) draperies, blinds, and other window coverings;

_____ (d) indoor and outdoor play equipment;

_____ (e) furniture, toys, and materials accessible to the children; and

_____ (f) entrances, exits, steps, and walkways including keeping them free of ice, snow, and other hazards.

_____ (23) Accessible raised decks or balconies that are 5 feet or higher, and open basement stairwells that are 5 feet or deeper shall have protective barriers that are at least 3 feet high.

_____ (24) If the facility is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, the entire facility shall be inspected and covered individuals in the facility shall comply with all rules, except when all of the following conditions are met:

_____ (a) there is a separate entrance for the program;

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

_____ (c) there is no shared access to the outdoor area used for the program, or a qualified staff member is present when children are using a shared outdoor area of the facility.

R381-70-10. Ratios and Group Size.

_____ (1) The provider shall maintain the staff to child ratio of at least one staff member for every 20 children.

_____ (2) The provider shall not exceed the maximum group size of 40 children per group.

_____ (3) There shall be at least 2 staff members present when there are more than 8 children on the premises.

_____ (4) The provider's or an employee's child is not counted in the staff to child ratio when the parent of the child is working at the facility, but the child is counted in the group size.

_____ (5) Staff who are 16 or 17 years old may be included in the staff to child ratio, but shall not have unsupervised contact with any child being served.

_____ (6) Volunteers may be included in the staff to child ratio if they:

_____ (a) are at least 16 years old,

_____ (b) receive at least 2.5 hours of preservice training before counting in the staff to child ratio, and

_____ (c) complete at least 1/2 hour of child related training for each month they volunteer 40 hours or more.

_____ (7) Student interns who are registered in a high school or college child care course may count in the staff to child ratio when requirements in R381-70-7(14)(a)-(c) are met.

_____ (8) Guests shall not count in staff to child ratios.

R381-70-11. Child Supervision and Security.

_____ (1) The provider shall ensure that staff provide and maintain active supervision of each child at all times.

_____ (2) Active supervision shall include:

_____ (a) staff shall be able to hear the children and be close enough to intervene;

_____ (b) staff shall know the number of children in their assigned group at all times;

_____ (c) staff's attention shall be focused on the children and not on staff's personal interests;

_____ (d) staff shall be aware of the entire group of children even when interacting with a smaller group or an individual child; and

_____ (e) staff shall position themselves so all children in their assigned group are actively supervised.

_____ (3) Whenever a child is participating in program services, the child's parent shall have access to their child and the areas used to serve their child.

_____ (4) To maintain security and supervision of children, the provider shall ensure that:

_____ (a) each child is signed in and out;

_____ (b) only parents or persons with written authorization from the parent may sign out a child;

_____ (c) photo identification is required if the individual signing the child in or out is unknown to the provider;

_____ (d) persons signing children in and out use identifiers, such as a signature, initials, or electronic code;

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

_____ (f) there is written permission from their parents if children sign themselves in and out.

_____ (5) In an emergency, program staff shall accept the parent's verbal authorization to release a child when the staff can confirm the identity of:

_____ (a) the person giving verbal authorization, and

_____ (b) the person picking up the child.

_____ (6) A six week record of each child's daily attendance, including sign in and sign out records, shall be kept on-site for review by the Department.

R381-70-12. Child Guidance and Interaction.

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

_____ (2) The provider shall inform parents, children, and those who interact with the children of the program's behavioral expectations and how any misbehavior will be handled.

_____ (3) Individuals who interact with the children shall guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.

_____ (4) Staff shall use gentle, passive restraint with children only when it is needed to stop children from injuring themselves or others, or from destroying property.

_____ (5) Interactions with the children shall not include any of the following:

_____ (a) any form of corporal punishment or any action that produces physical pain or discomfort such as hitting, spanking, shaking, biting, or pinching;

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

_____ (c) shouting at children;

- ~~_____ (d) any form of emotional abuse;~~
- ~~_____ (e) forcing or withholding food, rest, or toileting; or~~
- ~~_____ (f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.~~
- ~~_____ (6) Any person who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in Utah Code Section 62A-4a-403 and Section 62A-4a-411.~~

R381-70-13. Child Safety and Injury Prevention.

- ~~_____ (1) The building, outdoor area, toys, and equipment shall be used in a safe manner and as intended by the manufacturer to prevent injury to children.~~
- ~~_____ (2) 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) Tobacco, e cigarettes, e juice, e liquids, and similar products shall be inaccessible and, in compliance with the Utah Indoor Clean Air Act, 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:~~

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- ~~_____ (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) 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 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 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.~~
- ~~_____ (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.~~
- ~~_____ (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.~~
- ~~_____ (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.~~
- ~~_____ (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.~~

R381-70-16. Food and Nutrition.

- ~~_____ (1) On days when services are provided for 3 or more hours, the provider shall ensure that each child is offered a meal or snack at least once every 3 hours.~~
- ~~_____ (2) When food for children's meals and/or snacks is supplied by the provider:~~
 - ~~_____ (a) the meal service shall meet local health department food service regulations;~~
 - ~~_____ (b) the foods that are served shall meet the nutritional requirements of the USDA Child and Adult Care Food Program (CACFP) whether or not the provider participates in the CACFP;~~
 - ~~_____ (c) the provider shall use the CACFP meal pattern requirements, the standard Department approved menus, or menus approved by a registered dietitian. Dietitian approval shall be noted and dated on the menus, and shall be current within the past 5 years;~~
 - ~~_____ (d) the current week's menu shall be posted for review by parents and the Department; and~~

~~_____ (e) programs that are not participating or in good standing with the CACFP shall keep a six-week record of foods served at each meal and snack.~~

~~_____ (3) The person who serves food to children shall:~~

~~_____ (a) be aware of the children in their assigned group who have food allergies or sensitivities, and~~

~~_____ (b) ensure that the children are not served the food or drink they are allergic or sensitive to.~~

~~_____ (4) Children's food shall be served on dishes, napkins, except an individual finger food, such as a cracker, that may be placed directly in a child's hand. Food shall not be placed on a bare table.~~

~~_____ (5) Food and drink brought in by parents for their child's use shall be:~~

~~_____ (a) labeled with the child's name;~~

~~_____ (b) refrigerated if needed, and~~

~~_____ (c) consumed only by that child.~~

R381-70-17. Medications.

~~_____ (1) Nonrefrigerated medications shall be stored at least 48 inches above the floor or shall be locked.~~

~~_____ (2) Refrigerated medications shall be stored at least 36 inches above the floor or shall be locked, and if liquid, they shall be stored in a separate leakproof container.~~

~~_____ (3) All over the counter and prescription medications supplied by parents shall:~~

~~_____ (a) be labeled with the child's full name;~~

~~_____ (b) be kept in the original or pharmacy container;~~

~~_____ (c) have the original label, and~~

~~_____ (d) have child safety caps.~~

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

~~_____ (5) The medication permission form shall include:~~

~~_____ (a) the name of the child;~~

~~_____ (b) the name of the medication;~~

~~_____ (c) written instructions for administration, and~~

~~_____ (d) the parent signature and the date signed.~~

~~_____ (6) The instructions for administering the medication shall include:~~

~~_____ (a) the dosage;~~

~~_____ (b) how the medication will be given;~~

~~_____ (c) the times and dates to administer the medication, and~~

~~_____ (d) the disease or condition being treated.~~

~~_____ (7) If the provider supplies an over the counter medication for children's use, the medication shall not be administered to any child without previous parental consent for each instance it is given. The consent shall be:~~

~~_____ (a) prior written consent; or~~

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

~~_____ (8) The staff member administering the medication shall:~~

~~_____ (a) wash their hands;~~

~~_____ (b) check the medication label to confirm the child's name if the parent supplied the medication;~~

~~_____ (c) check the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer, and~~

~~_____ (d) administer the medication.~~

~~_____ (9) Immediately after administering a medication, the staff member giving the medication shall record the following information:~~

~~_____ (a) the date, time, and dosage of the medication given;~~

~~_____ (b) any errors in administration or adverse reactions; and~~

~~_____ (c) their signature or initials.~~

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

~~_____ (11) If the provider chooses not to administer medication as instructed by the parent, the provider shall notify the parent of their refusal to administer the medication before the time the medication needs to be given.~~

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

R381-70-18. Activities.

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

~~_____ (2) Daily activities shall include outdoor play as weather and air quality allow.~~

~~_____ (3) Physical development activities shall include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every 2 hours children spend in the program.~~

~~_____ (4) The provider shall post a daily activity schedule that includes:~~

~~_____ (a) activities that support children's healthy development; and~~

~~_____ (b) the times activities occur including at least meal, snack, and outdoor play times.~~

~~_____ (5) Toys, materials, and equipment needed to support children's healthy development shall be available to the children.~~

~~_____ (6) Except for occasional special events, the children's primary screen time activity on media such as television, cell phones, tablets, and computers shall be 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) first aid 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) 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) 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) 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) If sand, gravel, or shredded tires are used as protective cushioning, the depth of the material shall meet the CPSC guidelines in Table 1.

 - ~~_____ (a) the provider shall ensure that the cushioning is periodically checked for compaction and loosened to the depth listed in Table 1 if compacted; and~~
 - ~~_____ (b) if the material cannot be loosened due to extreme weather conditions, the provider shall not allow children to play on the equipment until the material can be loosened to the required depth.~~~~

TABLE 1

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

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

- ~~_____ (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		Shredded Wood	
	Engineered Wood Fibers	Wood Chips	Double Bark	Shredded Mulch
4' high or less	6"	6"	6"	6"
Over 4' up to 5'	6"	6"	6"	6"
Over 5' up to 6'	6"	6"	6"	6"
Over 6' up to 7'	9"	6"	9"	9"
Over 7' up to 8'	9"	9"	9"	9"
Over 8' up to 9'	9"	9"	9"	9"
Over 9' up to 10'	9"	9"	9"	9"
Over 10' up to 11'	9"	9"	9"	9"
Over 11'	9"	not allowed	not allowed	not allowed

- ~~_____ (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.~~
- ~~_____ (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.~~

~~(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.~~

~~(17) There shall be no gap greater than 3 1/2 inches in or under a required protective barrier on a play equipment platform.~~

~~(18) Stationary play equipment shall be stable or securely anchored.~~

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

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

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

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

~~(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 first aid supplies, including at least antiseptic, band-aids, and tweezers.~~

~~(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 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.]~~

R381-70-1. Legal Authority and Purpose.

(1) This rule is enacted and enforced in accordance with Utah Code, Title 26, Chapter 39.

(2) This rule establishes the foundational standards necessary to protect the health and safety of children in out-of-school-time programs and defines the general procedures and requirements to get and maintain a license.

R381-70-2. Definitions.

(1) "Applicant" means a person or business who has applied for a new or a renewal of a license from Child Care Licensing.

(2) "Background Finding" means information in a background check that may result in a denial from Child Care Licensing.

(3) "Background Check Denial" means that an individual has failed the background check and is prohibited from being involved with a child care program.

(4) "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.

(5) "Body Fluid" means blood, urine, feces, vomit, mucus, or saliva.

(6) "Business Days and Hours" means the days of the week and times the facility is open for business.

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

(8) "CCL" means the Child Care Licensing Program in the Department of Health that is delegated with the responsibility to enforce the Utah Child Care Licensing Act.

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

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

(11) "Covered Individual" means any of the following individuals involved with the program:

- ~~(a) an owner;~~
- ~~(b) a director;~~

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(c) a member of the governing body;
(d) an employee;
(e) a volunteer, except a parent of a child enrolled in the program; and
(f) anyone who has unsupervised contact with a child in the program.
(12) "Department" means the Utah Department of Health.
(13) "Designated Play Surface" means any accessible elevated surface for standing, walking, crawling, sitting or climbing; or an accessible flat surface at least two by two inches in size and having an angle less than 30 degrees from horizontal.
(14) "Director" means an individual who meets the director qualifications in this rule, and who assumes the child care program's day-to-day responsibilities for compliance with Child Care Licensing rules.
(15) "Emotional Abuse" means behavior that could harm a child's emotional development, such as threatening, intimidating, humiliating, demeaning, criticizing, rejecting, using profane language, or using inappropriate physical restraint.
(16) "Entrapment Hazard" means an opening greater than 3-1/2 by 6-1/4 inches and less than nine inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing a child's entrapment and strangulation.
(17) "Facility" means a program or the premises approved by the Department and licensed by Child Care Licensing.
(18) "Group" means the children who are assigned to and supervised by one or more staff members.
(19) "Group Size" means the number of children in a group.
(20) "Guest" means an individual who is not a covered individual and is at the facility with the provider's permission.
(21) "Health Care Provider" means a licensed health professional, such as a physician, dentist, nurse practitioner, or physician's assistant.
(22) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence.
(23) "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.
(24) "Infectious Disease" means an illness that is capable of being spread from one person to another.
(25) "Involved with Children" means to do any of the following at or for an out-of-school-time program:
(a) supervise or be assigned to work with children ;
(b) volunteer;
(c) own, operate, direct;
(d) reside;
(e) count in the staff-to-child ratio; or
(f) have unsupervised contact with a child in care.
(26) "License" means a license issued by the Department to provide out-of-school-time program services.
(27) "Licensee" means the legally responsible person or business that holds a valid license from Child Care Licensing.
(28) "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.

(29) "Over-the-Counter Medication" means medication that can be purchased without a written prescription including herbal remedies, vitamins, and mineral supplements.
(30) "Parent" means the parent or legal guardian of a child in the program.
(31) "Person" means an individual or a business entity.
(32) "Physical Abuse" means causing nonaccidental physical harm to a child.
(33) "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.
(34) "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.
(35) "Protective Cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of injuries from falls.
(36) "Provider" means the legally responsible person or business that holds a valid license from Child Care Licensing.
(37) "Qualifying Child" means:
(a) a child who is between five 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 five and 18 years old and is the child of a person other than the provider or a staff member.
(38) "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.
(39) "Room" is defined by the department as follows:
If a large room is divided into smaller rooms or areas with barriers such as furniture or with half walls, the room or area is considered:
(a) One room, if the room is divided by a solid barrier that is less than 24 inches, whether the barrier is movable or immovable.
(b) One room, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is an opening in the barrier through which caregivers and children can move freely.
(c) Two rooms, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked such as with a child safety gate. This also applies to a diaper changing station that is located behind a closed gate.
(d) Two rooms, if the room is divided by a solid barrier that is over 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked such as with a child safety gate. If there is an opening through which caregivers and children can move freely and the opening is not blocked, refer to the instructions for a large opening, archway, or doorway.
If two rooms or areas are connected by a large opening, archway, or doorway, the rooms or areas are considered:
(e) One room, if the width of the opening or archway is equal to or greater than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas, and there is no furniture or other dividers blocking the opening or archway. Otherwise the department shall consider this to be two rooms.

(f) Two rooms, if the width of the opening or archway is smaller than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas.

If in outdoor areas separated by interior fences, the department considers it:

(g) One area, if the interior fence is lower than 24 inches in height, whether or not the fence has an opening.

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

(i) Two areas if the interior fence is higher than 24 inches and there is no opening.

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

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

(41) "School-Age Child" means a child age five through 12 years old.

(42) "Services" means the supervision and response to the needs of five 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.

(43) "Sexual Abuse" means to take indecent liberties with a child with the intention to arouse or gratify the sexual desire of an individual or to cause pain or discomfort.

(44) "Sexually Explicit Material" means any depiction of actual or simulated sexually explicit conduct.

(45) "Staff-to-Child Ratio" means the number of staff responsible for a specific number of children.

(46) "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.

(47) "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 two 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 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.

(48) "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 check.

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

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

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

R381-70-3. License Required.

(1) A person or persons shall be licensed as an out-of-school-time program if they provide services:

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

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

(c) for five or more qualifying children;

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

(e) on an ongoing basis, on three or more days a week and for 30 or more days in a calendar year;

(f) to children who are at least five years of age; and

(g) for direct or indirect compensation.

(2) A person who is not required to be licensed may voluntarily become licensed, except for care that is for related children only or on a sporadic basis.

(3) A provider may be licensed to provide child care in a facility that is also licensed to offer foster or respite care services, or another licensed or certified human services program if the part of the building requesting a CCL license is physically separated from the other building services.

R381-70-4. License Application, Renewal, Changes, and Variances.

(1) Each applicant for a new care license shall:

(a) submit an online application;

(b) submit a copy of a current local fire clearance or a statement from the local fire authority that a fire inspection is not required;

(c) submit 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) submit a copy of a current local business license or a statement from the city that a business license is not required;

(e) submit a copy of the educational credentials of the individual who will be the director as required in Section R381-70-7;

(f) complete CCL background checks for covered individuals as required in Section R381-70-8;

(g) complete CCL new provider training no more than six months before becoming licensed; and

(h) pay any required fees, which are nonrefundable.

(2) Each 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 an applicant for a new license or a renewal does not require a fire inspection, the department shall verify the applicant's compliance with the following:

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

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

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

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

(e) exits are clearly identified;

(f) there is at least one unobstructed fire extinguisher on each level of the building, currently charged and serviced, and mounted not more than five feet above the floor;

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

(h) boiler, mechanical, and electrical panel rooms are not used for storage.

(4) If an applicant for a new license or a renewal serves food and the local health department states that a kitchen inspection is not required, the department shall verify the applicant's compliance with the following:

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

(b) there is a working thermometer in the refrigerator;

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

(d) cooks have a current food handler's permit available on-site for review by the department;

(e) cooks use hair restraints and wear clean outer clothing;

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

(g) reusable food holders, utensils, and food preparation surfaces are washed, rinsed, and sanitized before each use;

(h) chemicals are stored away from food and food service items;

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

(j) there is a working handwashing sink in the kitchen and handwashing instructions posted by the sink.

(5) Each applicant shall have six months from the time any portion of the application is submitted to finish the licensing process. If unsuccessful, the applicant shall reapply. Any resubmission must include the required documentation, payment of licensing fees, and a new inspection of the facility in order to be licensed.

(6) The department may deny an application for a license if, within the five 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 a rule violation 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, each 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) The department may grant a provider who fails to renew their license by the expiration date an additional 30 days to complete the renewal process if the provider pays a late fee.

(10) The department may deny renewal of a license for a provider who is no longer caring for children.

(11) Each 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) A provider shall submit a complete online changes request 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 type 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) Only the department may assign, transfer, or amend a license.

(15) If an applicant or provider cannot comply with a rule but can meet the intent of the rule in another way, the applicant or provider 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) Each provider shall comply with the existing rules until a variance is approved by the department.

(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 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 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) fails to allow authorized representatives of the department access to the facility to ensure compliance with this rule;

(f) fails to submit or make available to the department any written documentation required to verify compliance with this rule;

(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 an individual from having a license.

(5) Within ten 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 the children's 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 while in the program, the department may order the provider to suspend services and 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 services for more than four 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; 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 services without the appropriate license agrees to apply for a license but does not submit an application and the 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 a day as provided in Section 26-39-601.

(12) The department may assess a civil money penalty and also take action to deny, place on conditional status, revoke, immediately close, or refuse to renew a license.

(13) 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 checks, civil money penalties, and other fees assessed by the department.

(14) An applicant or provider may appeal any department decision within 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 old;

(b) pass a CCL background 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 and contact information of the individual or individuals who shall legally represent them and who shall comply with the requirements stated in Subsection R381-70-6(1).

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

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

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

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

(7) The provider shall post a current 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:

(a) have liability insurance; or

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

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

(11) The provider shall ensure that each child's admission and health assessment form includes 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 individuals authorized by the parent to sign the child out from the facility;

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

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

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

(h) any known allergies of the child;

(i) any known food sensitivities of the child;

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

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

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

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

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

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

(b) kept on-site for review by the department.

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

R381-70-7. Personnel and Training Requirements.

(1) The provider shall ensure that employees and volunteers are supervised, qualified, and trained to:

(a) meet the needs of the children as required by rule; and

(b) be in compliance with licensing rules.

(2) The provider shall ensure that the center has a qualified director as required by licensing rules.

(3) The provider shall ensure that the director:

(a) is at least 21 years old;

(b) passes a CCL background check;

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(c) receives at least 2-1/2 hours of preservice training before beginning job duties;

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

(e) knows and follows any applicable laws and rules; and

(f) completes at least 10 hours of child related training each year based on the facility's license date, or at least 45 minutes of child related training each month they work if hired partway through the facility's licensing year.

(4) The provider shall ensure that each new director has 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 and 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 and emotional development, and the child care environment; or 60 clock hours of equivalent training as approved by the department.

(5) The provider shall ensure that the director is on duty at the facility during operating hours for at least 50% each time the program is open and has sufficient freedom from other responsibilities to manage the center and respond to emergencies.

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

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

(a) is at least 21 years old;

(b) passes a CCL background check;

(c) receives at least 2-1/2 hours of preservice training before beginning job duties;

(d) knows and follows any applicable laws and rules; and

(e) completes at least 10 hours of child related training each year based on the facility's license date, or at least 45 minutes of child related training each month they work if hired partway through the facility's licensing year.

(8) The provider shall ensure that the director or the director designee is present at the facility when the center is open for business.

(9) The provider shall ensure that staff working with children:

(a) are at least 16 years old;

(b) pass a CCL background check;

(c) receive at least 2-1/2 hours of preservice training before working with children;

(d) know and follow any applicable laws and rules;

(e) complete at least 10 hours of child related training each year, based on the facility's license date, or at least 45 minutes of child related training each month they work if hired partway through the facility's licensing year; and

(f) do not have unsupervised contact with any child in the program, including during offsite activities and transportation, if the staff are younger than 18 years old.

(10) The provider shall ensure that any other employees such as drivers, cooks, and clerks:

(a) pass a CCL background check;

(b) receive at least 2-1/2 hours of preservice training before beginning job duties;

(c) know and follow any applicable laws and rules, and

(d) do not have unsupervised contact with any child in the program, including during offsite activities and transportation, if the employee is younger than 18 years old.

(11) The provider shall ensure that volunteers:

(a) pass a CCL background check; and

(b) do not have unsupervised contact with any child in the program, including during offsite activities and transportation, if the volunteer is younger than 18 years old.

(12) The provider shall ensure that guests:

(a) do not have unsupervised contact with any child in the program, including during offsite activities and transportation; and

(b) wear a guest nametag.

(13) The provider shall ensure that student interns who are registered and participating in a high school or college child care course:

(a) do not have unsupervised contact with any child in the program, including during offsite activities and transportation; and

(b) wear a guest nametag.

(14) The provider shall ensure that parents of children in care do not have unsupervised contact with any child in the program, except with their own children.

(15) The provider shall ensure that household members who are:

(a) 12 to 17 years old pass a CCL background check and do not have unsupervised contact with any child in the program, including during offsite activities and transportation; and

(b) 18 years old or older pass a CCL background check that includes fingerprints.

(16) The provider shall ensure that individuals who provide Individualized Educational Plan (IEP) or Individualized Family Service plan (IFSP) services such as physical, occupational, or speech therapists:

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

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

(17) The provider shall ensure that individuals from law enforcement, Child Protective Services, the department, and any similar entities provide proper identification before having access to the facility or to a child at the facility.

(18) The provider shall ensure that preservice training includes at least the following topics:

(a) job description and duties;

(b) current department rule Sections R381-70-7 through R381-70-24;

(c) disaster preparedness, response, and recovery;

(d) pediatric first aid and cardio pulmonary resuscitation (CPR);

(e) children with special needs;

(f) safe handling and disposal of hazardous materials;

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

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

(i) recognizing the signs of homelessness and available assistance;

(j) a review of the information in each child's health assessment in the caregiver's assigned group, including allergies, food sensitivities, and other special needs; and

(k) an introduction and orientation to the children in care.

(19) The provider shall keep documentation of each individual's preservice training on-site for review by the department and shall ensure that documentation includes at least the following:

(a) training topics;

(b) date of the training; and

(c) total hours or minutes of training.

(20) The provider shall ensure that annual child care training includes at least the following topics:

(a) current department rule Sections R381-70-7 through R381-70-24;

(b) disaster preparedness, response, and recovery;

(c) pediatric first aid and CPR;

(d) children with special needs;

(e) safe handling and disposal of hazardous materials;

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

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

(h) recognizing the signs of homelessness and available assistance.

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

(a) training topic;

(b) date of the training;

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

(d) total hours or minutes of training.

(22) When there are children at the center, the provider shall ensure that there is at least one staff member present who can demonstrate English literacy skills needed to care for children and respond to emergencies.

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

(a) at the facility;

(b) in each vehicle transporting children; and

(c) at each offsite activity.

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

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

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

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

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

R381-70-8. Background Checks.

(1) Before a new covered individual becomes involved with the program, the provider shall use the CCL provider portal search to:

(a) verify that the individual has a current CCL background check; and

(b) associate that individual with their facility if the covered individual appears in the search.

(2) Before a new covered individual who does not appear in the CCL provider portal search becomes involved with the program, the provider shall:

(a) have the individual submit an online background check form and fingerprints for individuals age 18 years old and older;

(b) authorize the individual's background check through the CCL provider's portal;

(c) pay any required fees; and

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

(3) The department may include a covered individual by name on the CCL provider portal and consider that covered individual's background check to be current if the covered individual has:

(a) passed a CCL background check;

(b) resided in Utah since the last background check was completed; and

(c) been associated with an active, CCL approved facility within the past 180 days.

(4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall:

(a) ensure that an online background check form is submitted;

(b) authorize the child's background check through the CCL provider's portal; and

(c) pay any required fees.

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

(6) If fingerprints are submitted electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows the department's guidelines.

(7) The department may deny a covered individual from being involved with child care for any of the following background findings:

(a) LIS supported findings;

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

(c) any felony convictions; or

(d) for any of the reasons listed under Subsection R381-100-8(8).

(8) The department may also deny a covered individual from being involved with child care for any of the following convictions regardless of severity:

(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 an individual;

(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.

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

(10) If the provider fails to pass a background check, the department may suspend or deny their license until the reason for the denial is resolved.

(11) 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.

(12) 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 to the Department of Public Safety.

(13) If a covered individual disagrees with a supported finding on the Department of Human Services Licensing Information System (LIS), the covered individual may appeal the finding to the Department of Human Services.

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

(15) The Executive Director of the Department of Health may overturn a background check denial if 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) The provider shall ensure that there is at least 35 square feet of indoor space for each child in the program, including the provider's and employees' children.

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

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

(3) The department may not include the following areas 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 department may limit the maximum allowed capacity for a facility based on local ordinances.

(5) The provider shall ensure that the number of children in care at any given time does 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 five working days and follow required procedures for remediation of the lead hazard.

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

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

(9) The provider shall ensure that rooms and areas 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) The provider shall ensure that there is a working telephone at the facility, in each vehicle while transporting children, and during offsite activities.

(12) The provider shall ensure that there are at least two working toilets and two working handwashing accessible to children in the center.

(13) The provider shall ensure that there is at least one additional working toilet and one additional handwashing sink for each additional group of one to 25 children.

(14) The provider shall ensure that there are bathrooms that provide privacy available for use by children.

(15) The provider shall ensure that there is an outdoor area that is safely accessible to children.

(16) The provider shall ensure that the outdoor area has at least 40 square feet of space for each child using the area at one time.

(17) The provider shall ensure that the total square footage of the outdoor area accommodates at least one-third of the approved capacity at one time or is at least 1600 square feet.

(18) The provider shall ensure that the outdoor area is enclosed within a fence, wall, or solid natural barrier that is at least four feet high.

(19) The provider shall ensure that there is no gap five by five inches or greater in or under the fence or barrier.

(20) The provider shall ensure that children are in an enclosed area when children are outdoors, except during offsite activities.

(21) The provider shall ensure that there is shade available to protect the children from excessive sun and heat when children are in the outdoor area.

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

- (a) meet applicable state and local laws and ordinances related to the operation of a swimming pool;
- (b) maintain the pool in a safe manner; and
- (c) when not in use, cover the pool with a commercially-made safety enclosure that is installed according to the manufacturer's instructions, or enclose the pool within at least a four-foot-high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises.

(23) 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.

(24) The provider shall ensure that accessible raised decks or balconies that are five feet or higher, and open stairwells that are five feet or deeper have protective barriers that are at least three feet high.

(25) 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 department may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with the rules, except when 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.

R381-70-10. Ratios and Group Size.

- (1) The provider shall maintain the staff-to-child ratio of at least one staff member for every 20 children.
- (2) The provider shall not exceed the maximum group size of 40 children per group.
- (3) The provider shall ensure that there are at least two staff members present when there are more than eight children on the premises.
- (4) The provider shall include the provider's and employees' children:
 - (a) in the group size when the parent of the child is working at the facility; and
 - (b) in the group size and the staff-to-child ratio when the parent of the child is not working at the facility.
- (5) The provider may include caregivers, student interns who are registered in a high school or college child care course, and volunteers who are 16 or 17 years old in the caregiver-to-child ratio.
- (6) The provider shall ensure that guests do not count in caregiver-to-child ratios.

R381-70-11. Child Supervision and Security.

- (1) The provider shall ensure that staff provide and maintain active supervision of each child, including that staff:
 - (a) can hear the children and are close enough to intervene;
 - (c) know the number of children in their assigned group at any time;
 - (d) focus attention on the children and not on the staff's personal interests;
 - (e) are aware of the entire group of children even when interacting with a smaller group or an individual child; and
 - (f) position themselves so each child in their assigned group is actively supervised.
- (2) The provider shall ensure that parents have access to their child and the areas used to care for their child when their child is in care.
- (3) To maintain security and supervision of children, the provider shall ensure that:
 - (a) each child is signed in and out;
 - (b) only parents or individuals with written authorization from the parent may sign out a child;
 - (c) photo identification is required if the individual signing the child out is unknown to the provider;
 - (d) individuals signing children in and out use identifiers, such as a signature, initials, or electronic code;
 - (e) the sign-in and sign-out records include the date and time each child arrives and leaves; and
 - (f) there is written permission from the child's parent if children sign themselves in or out.
- (4) In an emergency, the provider shall accept the parent's verbal authorization to release a child if the provider can confirm the identity of:
 - (a) the individual giving verbal authorization; and

(b) the individual picking up the child.

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

R381-70-12. Child Guidance and Interaction.

- (1) The provider shall ensure that no child is subjected to physical, emotional, or sexual abuse while in the program.
 - (2) The provider shall inform parents, children, and those who interact with the children of the center's behavioral expectations and how any misbehavior will be handled.
 - (3) The provider shall ensure that individuals who interact with the children guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.
 - (4) The provider shall ensure that staff use gentle, passive restraint with children only when it is needed to protect children from injuring themselves or others, or to stop them from destroying property.
 - (5) The provider shall ensure that interactions with the children do not include:
 - (a) any form of corporal punishment or any action that produces physical pain or discomfort such as hitting, spanking, shaking, biting, or pinching;
 - (b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint;
 - (c) shouting at children;
 - (d) any form of emotional abuse;
 - (e) forcing or withholding food, rest, or toileting; or
 - (f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.
 - (6) Any individual who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in state law.
- R381-70-13. Child Safety and Injury Prevention.**
- (1) The provider shall ensure that the building, outdoor area, toys, and equipment are used in a safe manner and as intended by the manufacturer to prevent injury to children.
 - (2) The provider shall ensure that poisonous and harmful plants are inaccessible to children.
 - (3) The provider shall ensure that razors and other similar blades are inaccessible to children.
 - (4) The provider shall ensure that strangulation hazards such as ropes, cords, chains, and wires attached to a structure and long enough to encircle a child's neck are inaccessible to children.
 - (5) The provider shall ensure that tripping hazards such as unsecured flooring, rugs with curled edges, or cords in walkways are inaccessible to children.
 - (6) The provider shall ensure that exits are free of any blocking objects.
 - (7) The provider shall ensure that standing water that measures two inches or deeper and five by five inches or greater in diameter is inaccessible to children.
 - (8) The provider shall ensure that toxic or hazardous chemicals such as cleaners, insecticides, lawn products, and flammable, corrosive, and reactive materials are:
 - (a) inaccessible to children;
 - (b) used according to manufacturer instructions;
 - (c) stored in containers labeled with the contents of the container; and
 - (d) disposed of properly.

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

- (a) matches or cigarette lighters;
- (b) open flames;
- (c) hot wax or other hot substances; and
- (d) when in use, portable space heaters, wood burning stoves, and fireplaces.

(10) The provider shall ensure that live electrical wires are inaccessible to children.

(11) Unless used and stored in compliance with the Utah Concealed Weapons Act or as otherwise allowed by law, the provider shall ensure that firearms such as guns, muzzleloaders, rifles, shotguns, hand guns, pistols, and automatic guns are:

- (a) locked in a cabinet or area using a key, combination lock, or fingerprint lock; and
- (b) stored unloaded and separate from ammunition.

(12) The provider shall ensure that weapons such as paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace are inaccessible to children.

(13) The provider shall ensure that alcohol, illegal substances, and sexually explicit material are inaccessible, and not used on the premises, during offsite activities, or in center vehicles any time a child is present.

(14) The provider shall ensure that an outdoor source of drinking water, such as individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain is available to each child when the outside temperature is 75 degrees or higher.

(15) The provider shall ensure that areas accessible to children are free of heavy or unstable objects that children could pull down on themselves, such as furniture, unsecured televisions, and standing ladders.

(16) The provider shall ensure that hot water accessible to children does not exceed 120 degrees Fahrenheit.

(17) The provider shall ensure that tobacco, e-cigarettes, e-juice, e-liquids, and similar products are inaccessible and, in compliance with the Utah Indoor Clean Air Act, not used:

- (a) in the facility or any other building when a child is present;
- (b) in any vehicle that is being used to transport children;
- (c) within 25 feet of any entrance to the facility or other building occupied by children; or
- (d) in any outdoor area or within 25 feet of any outdoor area occupied by children.

R381-70-14. Emergency Preparedness, Response, and Recovery.

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

- (a) includes procedures for evacuation, relocation, shelter in place, lockdown, communication with and reunification of families, and continuity of operations;
- (b) includes procedures for accommodations for children with disabilities and children with chronic medical conditions;
- (c) is available for review by parents, staff, and the departments during business hours; and
- (d) is followed if an emergency happens, unless otherwise instructed by emergency personnel.

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

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

(4) The provider shall conduct fire evacuation drills monthly and make sure drills include a complete exit of each child, staff, and volunteers from the building.

- (5) 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 individual supervising the drill;
 - (d) the total time to complete the evacuation; and
 - (e) any problems encountered and remediation.
- (6) The provider shall conduct drills for disasters other than fires at least once every six months.

(7) 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 individual supervising the drill; and
 - (e) any problems encountered and remediation.
- (8) The provider shall vary the days and times on which fire and other disaster drills are held.

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

- (10) The provider shall:
 - (a) give parents a written report on the day of occurrence of each incident, accident, or injury involving their child;
 - (b) ensure the report has the signatures of the caregivers involved, the center director or director designee, and the individual picking up the child; and
 - (c) if children sign themselves out of the center, send a copy of the report to the parent on the day following the occurrence.

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

(12) If a life-threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb happens, the provider shall:

- (a) call emergency personnel immediately;
- (b) contact the parent after emergency personnel are called; and
- (c) if the parent cannot be reached, try to contact the child's emergency contact individual.

(13) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall:

- (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 five business days of the incident.

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

R381-70-15. Health and Infection Control.

(1) The provider shall keep the building, furnishings, equipment, and outdoor area clean and sanitary including:

- (a) walls and flooring clean and free of spills, dirt, and grime;
- (b) areas and equipment used for the storage, preparation, and service of food clean and sanitary;
- (c) surfaces free of rotting food or a build-up of food;
- (d) the building and grounds free of a build-up of litter, trash, and garbage;

(e) frequently touched surfaces, including doorknobs and light switches, cleaned and sanitized; and

(f) the facility free of animal feces.

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

(3) The provider shall clean and sanitize any toys and materials used by children:

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

(b) after being contaminated by a body fluid.

(4) The provider shall ensure that fabric toys and items such as stuffed animals, cloth dolls, pillow covers, and dress-up clothes are machine washable and if used, washed at least each week or as needed.

(5) The provider shall clean and sanitize water play tables or tubs daily if used by the children.

(6) The provider shall clean and sanitize bathroom surfaces including toilets, sinks, faucets, toilet and sink handles, and counters each day the facility is open for business.

(7) The provider shall keep toilet paper in a dispenser that is accessible to children.

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

(9) The provider shall ensure that staff and volunteers wash their hands thoroughly with liquid soap and running water:

(a) upon arrival;

(b) before handling or preparing food or bottles;

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

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

(e) after contact with a body fluid;

(f) when coming in from outdoors; and

(g) after cleaning up or taking out garbage.

(10) The provider shall ensure that staff teach children how to wash their hands thoroughly and oversee handwashing when possible.

(11) The provider shall ensure that children wash their hands thoroughly with liquid soap and running water:

(a) upon arrival;

(b) before and after eating meals and snacks;

(c) after using the toilet;

(d) after contact with a body fluid;

(e) before using a water play table or tub; and

(f) when coming in from outdoors.

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

(13) The provider shall store personal hygiene items, such as toothbrushes, combs, and hair accessories separate, so they do not touch each other, and ensure they are not shared or they are sanitized between each use.

(14) The provider shall ensure that a child's clothing is promptly changed if the child has a toileting accident.

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

(a) not rinsed or washed at the center;

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

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

(16) The provider shall take precautions when cleaning floors, furniture, and other surfaces contaminated by blood, urine, feces, or vomit, and ensure that, except for diaper changes and toileting accidents, staff cleaning these bodily fluids:

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

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

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

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

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

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

(a) does not disclose any personal identifiable information;

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

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

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

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

(a) individuals who prepare food in the kitchen do not change diapers or help in toileting children;

(b) caregivers who care for diapered children only prepare food for the children in their care, and they do 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, coughing, or vomiting do not prepare or serve foods.

R381-70-16. Food and Nutrition.

(1) The provider shall offer a meal or snack to each child at least once every three hours on days when services are provided for three or more hours.

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

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

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

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

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

NOTICES OF PROPOSED RULES

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

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

(a) is aware of the children in their assigned group who have food allergies or sensitivities; and

(b) ensures that the children are not served the food or drink they are allergic or sensitive to.

(4) The provider shall not place children's food on a bare table, and shall serve children's food on dishes, napkins, or sanitary highchair trays, except an individual finger food such as a cracker, which may be placed directly in a child's hand.

(5) If parents bring food and drink for their child's use, the provider shall ensure that the food is:

(a) labeled with the child's name;

(b) refrigerated if needed; and

(c) consumed only by that child.

R381-70-17. Medications.

(1) The provider shall lock nonrefrigerated medications or store them at least 48 inches above the floor.

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

(3) If parents supply any over-the-counter or prescription medications, the provider shall ensure those medications are:

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

(b) kept in the original or pharmacy container;

(c) have the original label; and

(d) have child-safety caps.

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

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

(a) the name of the child;

(b) the name of the medication;

(c) written instructions for administration; and

(d) the parent signature and the date signed.

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

(a) the dosage;

(b) how the medication will be given;

(c) the times and dates to administer the medication; and

(d) the disease or condition being treated.

(7) If the provider supplies an over-the-counter medication for children's use, the provider shall ensure that the medication is not administered to any child without previous parental consent for each instance it is given. The provider shall ensure that the consent is:

(a) written; or

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

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

(a) washes their hands;

(b) check the medication label to confirm the child's name if the parent supplied the medication;

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

(d) administers the medication.

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

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

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

(c) their signature or initials.

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

(11) The provider shall notify the parent before the time a medication needs to be given to a child if the provider chooses not to administer medication as instructed by the parent.

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

R381-70-18. Activities.

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

(2) The provider shall ensure that daily activities include outdoor play as weather and air quality allow.

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

(4) 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, and outdoor play times.

(5) The provider shall ensure that toys, materials, and equipment needed to support children's healthy development are available to the children.

(6) Except for occasional special events, the provider shall ensure that the children's primary screen time activity on media such as television, cell phones, tablets, and computers is planned to address the needs of children.

(7) If swimming activities are offered or if wading pools are used, the provider shall ensure that:

(a) the parent gives permission before their child in care uses the pool;

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

(c) if the pool is over four feet deep, there is 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 do not count toward the staff-to-child ratio.

(8) If offsite activities are offered, the provider shall ensure that:

(a) the parent gives written consent before each activity;

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

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

(d) children wear or carry with them the name and phone number of the center;

(e) children's names are not used on nametags, t-shirts, or in other visible ways; and

(f) there is a way for staff and children to wash their hands with soap and water, or with wet wipes and hand sanitizer if there is no source of running water.

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

- (a) the child's name;
- (b) the parent's name and phone number;
- (c) the name and phone number of an individual to notify if an emergency happens and 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) The provider shall ensure that stationary play equipment has a surrounding use zone that extends from the outermost edge of the equipment and that, with the exception of swings, stationary play equipment has at least a six-foot use zone if any designated play surface is higher than 30 inches.

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

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

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

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

- (a) at least three feet from the outermost edge of the rocker when at rest; or
- (b) at least six feet from the outermost edge of the rocker when at rest if the seat is higher than 20 inches.

(7) The provider shall ensure that the following use zones do 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.

(8) Unless prohibited in Subsection R381-70-19(7), the provider shall ensure that the use zones of play equipment only overlap when there is at least six feet between the pieces of equipment if the designated play surface is 30 inches or lower, or there is at least nine feet between the pieces of equipment if the designated play surface is higher than 30 inches.

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

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

(11) If sand, gravel, or shredded tires are used as protective cushioning, the provider shall:

(a) ensure that the cushioning is periodically checked for compaction and loosened to the depth listed in Table 1 if compacted;

(b) if the material cannot be loosened due to extreme weather conditions, not allow children to play on the equipment until the material can be loosened to the required depth; and

(c) ensure that the depth of the material meets the guidelines in Table 1.

TABLE 1

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

<u>Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point</u>	<u>Fine Sand</u>		<u>Coarse Sand</u>		<u>Shredded Tires</u>	
	<u>Fine Sand</u>	<u>Coarse Sand</u>	<u>Fine Gravel</u>	<u>Medium Gravel</u>	<u>Shredded Tires</u>	
<u>Up to 5' high</u>	6"	6"	6"	6"	6"	
<u>Over 5' up to 6'</u>	6"	9"	6"	9"	6"	
<u>Over 6' up to 9'</u>	9"	not allowed	9"	not allowed	6"	
<u>Over 9' up to 10'</u>	not allowed	not allowed	9"	not allowed	6"	
<u>Over 10' up to 12'</u>	not allowed	not allowed	not allowed	not allowed	6"	
	allowed	allowed	allowed	allowed		

(12) If shredded wood products are used as protective cushioning, the provider shall:

- (a) keep on-site for review by the department documentation from the manufacturer that the wood product is protective cushioning;
- (b) ensure there is adequate drainage under the material; and
- (c) ensure the depth of the shredded wood meets the guidelines in Table 2.

TABLE 2

Depths of Protective Cushioning Required for Shredded Wood Products

<u>Highest Designated Play Surface, Climbing Bar, or Swing Pivot Point</u>	<u>Engineered Wood</u>		<u>Double Shredded</u>	
	<u>Wood Fibers</u>	<u>Chips</u>	<u>Bark Mulch</u>	
<u>Up to 6' high</u>	6"	6"	6"	
<u>Over 6' up to 7'</u>	9"	6"	9"	
<u>Over 7' up to 11'</u>	9"	9"	9"	
<u>Over 11'</u>	9"	not allowed	not allowed	
		allowed	allowed	

(13) If a unitary cushioning is used, the provider shall maintain on-site for review by the department documentation from the manufacturer that the material is cushioning for playgrounds.

(14) 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.

(15) The provider shall ensure that a play equipment platform that is more than 48 inches above the floor or ground has a protective barrier that is at least 38 inches high.

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

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

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- (18) The provider shall ensure that there are no trampolines on the premises that are accessible to any child in care.
- (19) The provider shall ensure that there are no entrapment hazards on or within the use zone of any piece of stationary play equipment.
- (20) The provider shall ensure that there are no strangulation hazards on or within the use zone of any piece of stationary play equipment.
- (21) The provider shall ensure that there are no crush, shearing, or sharp edge hazards on or within the use zone of any piece of stationary play equipment.
- (22) The provider shall ensure that there are no tripping hazards such as concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.

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) The provider shall ensure that each vehicle used for transporting children:
 - (a) is enclosed with a roof or top;
 - (b) is equipped with safety restraints;
 - (c) has a current vehicle registration;
 - (d) is maintained in a safe and clean condition; and
 - (e) contains first aid supplies, including at least antiseptic, bandages, and tweezers.
 - (3) The provider shall ensure that the safety restraints in each vehicle that transports children are:
 - (a) appropriate for the age and size of each child who is transported, as required by Utah law;
 - (b) properly installed; and
 - (c) in safe condition and working order.
 - (4) The provider shall ensure that the driver of each vehicle who is transporting children:
 - (a) is at least 18 years old;
 - (b) has and carries with them a current, valid driver's license for the type of vehicle being driven;
 - (c) has with them the written emergency contact information for each child being transported;
 - (d) ensures that each child being transported is in an individual safety restraint that is used according to Utah law;
 - (e) ensures that the inside vehicle temperature is between 60-85 degrees Fahrenheit;
 - (f) never leaves a child in the vehicle unattended by an adult;
 - (g) ensures that children stay seated while the vehicle is moving;
 - (h) never leaves the keys in the ignition when not in the driver's seat; and
 - (i) ensures that the vehicle is locked during transport.
 - (5) If 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 the children;
 - (c) the staff-to-child ratio is maintained; and
 - (d) a staff member with the children has written emergency contact information and releases for the children being transported.

R381-70-21. Animals.

- (1) The provider shall inform parents of the kinds of animals allowed at the facility.
- (2) The provider shall ensure that there is 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 individual.
- (3) The provider shall ensure that animals at the facility are clean and free of obvious disease or health problems that could adversely affect children.
- (4) The provider shall ensure that there is no animal or animal equipment in food preparation or eating areas.
- (5) If children help in the cleaning of animals or animal equipment, the provider shall ensure that the children wash their hands immediately after cleaning the animal or equipment.
- (6) The provider shall ensure that children and staff wash their hands immediately after playing with or touching reptiles and amphibians.
- (7) The provider shall ensure that dogs, cats, and ferrets that are housed at the facility 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: [February 25,] 2020

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

NOTICE OF PROPOSED RULE

TYPE OF RULE: Repeal and Reenact

Utah Admin. Code Ref (R no.):	R381-100	Filing No. 52832
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Agency Information

1. Department:	Health		
Agency:	Child	Care	Center Licensing Committee
Building:	Highland		
Street address:	3760 South Highland Drive		
City, state:	Salt Lake City, UT 84114		
Mailing address:	PO Box 142003		
City, state, zip:	Salt Lake City, UT 84114-2003		
Contact person(s):			
Name:	Phone:	Email:	
Simon Bolivar	801-803-4618	sbolivar@utah.gov	

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
R381-100. Child Care Centers
3. Purpose of the new rule or reason for the change:
This repeal and reenact is filed to accommodate all required technical changes suggested by the governor's office and many others needed by the Department of Health procedures. These changes will make this rule be in compliance with the state rulewriting process. Since the required technical changes are many, a repeal and reenact will make this process simpler to be accomplished.
4. Summary of the new rule or change:
Most of the proposed changes are technical. They include re-writing sentences in active voice, deleting or adding punctuation, renumbering as needed, spelling, proper word choice, adding or deleting words to clarify language, and negative into positive sentences. The Child Care Center Licensing Committee (Agency) is also deleting unnecessary language, clarifying training topics as required by federal regulations and deleting required face-to-face training components, clarifying supervision for 16- and 17-year-old caregivers, clarifying room measurements, and clarifying the emergency preparedness and response language to delete the need for the Health and Safety Plan template.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
The Agency does not anticipate any additional costs or savings due to the proposed rule changes because the changes are mostly technical and do not add or delete requirements that may affect the budget.
B) Local governments:
These proposed amendments are not expected to have any fiscal impact on local governments' revenues or expenditures because the changes are mostly technical and do not add or delete requirements that may affect local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
The majority of child care centers in the state operate as small businesses. However, the agency does not expect any costs or savings associated with the proposed rule amendments because the changes are mostly technical and do not add or delete requirements that may affect them.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

The Agency does not anticipate any additional costs or savings to non-small businesses due to the proposed rule changes because the changes are mostly technical and do not add or delete requirements that may affect them.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The Agency does not anticipate any additional costs or savings to persons other than small businesses, non-small businesses, state, or local entities due to the proposed rule changes because the changes are mostly technical and do not add or delete requirements that may affect them.

F) Compliance costs for affected persons:

The Agency does not anticipate any additional costs due to the proposed rule changes because the changes are mostly technical and do not add or delete requirements that may affect them.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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

H) Department head approval of regulatory impact analysis:

I have reviewed and approved this fiscal analysis. Joseph K. Miner, MD, Executive Director

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

This repeal and reenact is filed to accommodate all required technical changes suggested by the governor's office and many others needed by the Department of Health procedures. These changes will make this rule be in compliance with the state rulewriting process. Since the required technical changes are many, a repeal and reenact will make this process simpler to be accomplished. The changes delete unnecessary language, clarify training topics as required by federal regulations and delete required face-to-face training components, clarify supervision for 16- and 17-year-old caregivers, clarify room measurements, and clarify the emergency preparedness and response language to delete the need for the Health and Safety Plan template.

Simon Bolivar worked closely with Holly Langton in the governor's office to ensure that the office agrees that the new rule language conforms to the requirements in the Rulewriting Manual.

There is no fiscal impact on businesses because there are no substantive changes to requirements on childcare businesses

B) Name and title of department head commenting on the fiscal impacts:

Joseph K. Miner, MD, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Subsection		
26-39-203(1)(a)		

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	08/14/2020
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10. This rule change MAY become effective on:	08/21/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	06/18/2020
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R381. Health, Child Care Center Licensing Committee.

R381-100. Child Care Centers.

[R381-100-1. Legal Authority and Purpose.

~~(1) This rule is enacted and enforced in accordance with Utah Code, Title 26, Chapter 39.~~

~~(2) This rule establishes the foundational standards necessary to protect the health and safety of children in child care centers and defines the general procedures and requirements to obtain and maintain a license to provide child care.~~

R381-100-2. Definitions.

~~(1) "Applicant" means a person or business who has applied for a new or a renewal of a license, certificate, or exemption from Child Care Licensing.~~

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

~~(3) "Background Finding" means information in a background check that may result in a denial from Child Care Licensing.~~

~~(4) "Background Check Denial" means that an individual has failed the background 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.~~

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

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

~~(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.~~

~~(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.~~

~~(12) "Child Care Center Licensing Committee" means the Child Care Center Licensing Committee created in the Utah Child Care Licensing Act.~~

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

~~(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.~~

~~(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.~~

~~(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.~~

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

~~(18) "Crib" means an infant's bed with sides to protect them from falling including a bassinet, porta-crib, and play pen.~~

~~(19) "Department" means the Utah Department of Health.~~

~~(20) "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.~~

~~(21) "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.~~

~~(22) "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.~~

~~(23) "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.~~

~~(24) "Facility" means a child care program or the premises approved by the Department to be used for child care.~~

~~(25) "Group" means the children who are assigned to and supervised by one or more caregivers.~~

~~(26) "Group Size" means the number of children in a group.~~

~~(27) "Guest" means an individual who is not a covered individual and is at the child care facility with the provider's permission.~~

~~(28) "Health Care Provider" means a licensed health professional, such as a physician, dentist, nurse practitioner, or physician's assistant.~~

~~(29) "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)~~

~~(30) "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.~~

~~(31) "Infant" means a child who is younger than 12 months of age.~~

~~(32) "Infectious Disease" means an illness that is capable of being spread from one person to another.~~

~~(33) "Involved with Child Care" means to do any of the following at or for a child care program:~~

~~(a) care for or supervise children;~~

~~(b) volunteer;~~

~~(c) own, operate, direct,;~~

~~(d) reside;~~

~~(e) count in the caregiver to child ratio; or~~

~~(f) have unsupervised contact with a child in care.~~

~~(34) "License" means a license issued by the Department to provide child care services.~~

~~(35) "Licensee" means the legally responsible person or business that holds a valid license from Child Care Licensing.~~

~~(36) "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.~~

~~(37) "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)~~

~~(38) "Over the Counter Medication" means medication that can be purchased without a written prescription including herbal remedies, vitamins, and mineral supplements.~~

~~(39) "Parent" means the parent or legal guardian of a child in care.~~

~~(40) "Person" means an individual or a business entity.~~

~~(41) "Physical Abuse" means causing nonaccidental physical harm to a child.~~

~~(42) "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.~~

~~(43) "Preschooler" means a child age 2 through 4 years old.~~

~~(44) "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.~~

~~(45) "Protective Cushioning" means a shock absorbing surface under and around play equipment that reduces the severity of injuries from falls.~~

~~(46) "Provider" means the legally responsible person or business that holds a valid license from Child Care Licensing.~~

~~(47) "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.~~

~~(48) "Related Child" means a child for whom a provider is the parent, legal guardian, step-parent, grandparent, step-grandparent,~~

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great grandparent, sibling, step sibling, aunt, step aunt, great aunt, uncle, step uncle, or great uncle.

(49) "Room" will be defined as follows:

When a large room is divided into smaller rooms or areas with barriers such as furniture or with half walls, the room or area will be considered:

(a) One room, when the room is divided by a solid barrier that is 24 inches or less, whether the barrier is movable or immovable.

(b) One room, when the room is divided by a solid barrier that is between 25 and 40 inches in height and there is an opening in the barrier through which caregivers and children can move freely.

(c) Two rooms, when the room is divided by a solid barrier that is between 25 and 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked such as with a child safety gate. This applies to a diaper changing station that is located behind a closed gate.

(d) Two rooms, when the room is divided by a solid barrier that is over 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked such as with a child safety gate. If there is an opening through which caregivers and children can move freely and if the opening is not blocked, refer to the instructions for a large opening, archway, or doorway.

When two rooms or areas are connected by a large opening, archway, or doorway, the rooms or areas will be considered:

(e) One room, when the width of the opening or archway is equal to or greater than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas, and there is no furniture or other dividers blocking the opening or archway. Otherwise this will be considered two rooms.

(f) Two rooms, when the width of the opening or archway is smaller than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas.

When in outdoor areas separated by interior fences, consider it:

(g) One area, when the interior fence is 24 inches or lower in height, whether or not the fence has an opening.

(h) One area, when the interior fence is 40 inches or lower in height with an opening through which caregivers and children can move freely.

(i) Two areas when the interior fence is higher than 24 inches and there is no opening.

(j) Two areas, when the interior fence is higher than 40 inches whether or not the fence has an opening.

(50) "Sanitize" means to use a chemical product to remove bacteria from a surface or object.

(51) "School Age Child" means a child age 5 through 12 years old.

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

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

(54) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta crib, playpen, or bed.

(55) "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 trieyele;

(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.

(56) "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 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.

(57) "Substitute" means a person who assumes a caregiver's duties when the caregiver is not present.

(58) "Toddler" means a child age 12 through 23 months.

(59) "Unrelated Child" means a child who is not a "related child" as defined in R381-100-2(48).

(60) "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 check.

(61) "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.

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

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

R381-100-3. License Required.

(1) A person or persons shall be licensed as a child care center if they provide care:

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

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

(c) for 5 or more children;

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

(e) on an ongoing basis for 4 or more weeks in a year, and

(f) for direct or indirect compensation.

(2) The Department may not license, nor is a license required for:

(a) a person who cares for related children only, or

(b) a person who provides care on a sporadic basis only.

(3) A provider may not be licensed to provide child care in a facility that is also licensed to offer foster or respite care services, or another licensed or certified human services program, unless the part of the building requesting a CCL license is physically separated from the other building services.

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;~~
~~(f) a copy of a completed Department health and safety plan form;~~
~~(g) CCL background checks for all covered individuals as required in R381-100-8;~~
~~(h) new provider training completion no more than six months before the date of the application; 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 verify compliance with the following:~~
~~(a) address numbers and/or letters shall be readable from the street;~~
~~(b) exit doors shall operate properly and shall be well maintained;~~
~~(c) obstructions in exits, aisles, corridors, and stairways shall be removed;~~
~~(d) exit doors shall be unlocked from the inside during business hours;~~
~~(e) exits shall be clearly identified;~~
~~(f) there shall be at least one unobstructed fire extinguisher on each level of the building, currently charged and serviced, and mounted not more than 5 feet above the floor;~~
~~(g) there shall be working smoke detectors that are properly installed on each level of the building; and~~
~~(h) boiler, mechanical, and electrical panel rooms shall not be used for storage.~~
~~(4) If the 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 verify 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.~~

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- ~~_____ (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 checks, civil money penalties, and other fees assessed by the Department.~~
- ~~_____ (15) An applicant or provider may appeal any Department decision within 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 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 ensure that all employees and volunteers 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 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 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 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 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.~~

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- ~~_____ (11) All other employees such as drivers, cooks, and clerks shall:~~
 - ~~_____ (a) pass a CCL background check,~~
 - ~~_____ (b) receive at least 2.5 hours of preservice training before beginning job duties,~~
 - ~~_____ (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 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 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 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 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 check;~~
 - ~~_____ (b) 18 years of age or older shall pass a CCL background 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 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 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 current first aid and CPR certification, if required in rule; and~~
 - ~~_____ (c) a six-week record of the times worked each day.~~

R381-100-8. Background Checks.

- ~~_____ (1) Before a new covered individual becomes involved with child care in the program, the provider shall use the CCL provider portal search to:~~

~~(a) verify that the individual has a current CCL background check, and~~
~~(b) associate that individual with their facility.~~
~~(2) Before a new covered individual who does not show in the CCL provider portal search becomes involved with child care in the program, the provider shall:~~
~~(a) have the individual submit an online background check form and fingerprints for individuals age 18 years and older,~~
~~(b) authorize the individual's background check through the CCL provider's portal,~~
~~(c) pay all required fees, and~~
~~(d) receive written notice from CCL that the individual passed the background check.~~
~~(3) A covered individual without a current background check will not show in the CCL provider portal search. The Department may not consider a covered individual's background check current when the covered individual has:~~
~~(a) failed to pass a CCL background check;~~
~~(b) moved outside of Utah; or~~
~~(c) not been associated with an active, CCL approved child care facility for the past 180 days.~~
~~(4) Within 10 working days from when a child who resides in the facility turns 12 years old, the provider shall:~~
~~(a) ensure that an online background check form is submitted,~~
~~(b) authorize the child's background check through the CCL provider's portal, and~~
~~(c) pay all required 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) 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, or~~
~~(d) for any of the reasons listed under R381-100-8(8).~~
~~(8) 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.~~

~~(9) 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 check was conducted.~~
~~(10) 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.~~
~~(11) If the provider has a background check denial, the Department may suspend or deny their license until the reason for the denial is resolved.~~
~~(12) 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.~~
~~(13) 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.~~
~~(14) 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.~~
~~(15) 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.~~
~~(16) 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.~~

~~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.~~

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(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 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

Birth	# 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	

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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 16	

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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.

R381-100-11. Child Supervision and Security.

(1) The provider shall ensure that caregivers provide and maintain active supervision of each child at all times.

(2) Active supervision shall include:

(a) for children younger than 5 years of age, the caregiver shall be physically present in the room or area with the children;

(b) for school-age children, the caregiver shall be able to hear the children and be close enough to intervene;

(c) caregivers shall know the number of children in their care at all times;

(d) caregivers' attention shall be focused on the children and not on caregivers' personal interests;

(e) caregivers shall be aware of the entire group of children even when interacting with a smaller group or an individual child; and

(f) caregivers shall position themselves so all children in their assigned group are actively supervised.

(3) When video cameras and mirrors are used to supervise napping children:

(a) the napping room shall be adjacent to a non-napping room;

(b) there shall be a staff member in the non-napping room;

(c) cameras or mirrors shall be positioned so that every child can be seen;

(d) the staff member shall be able to see and hear each child;

(e) there shall be an open door without a barrier, such as a gate, between the napping room and the non-napping room; and

(f) children who wake up shall be moved to the non-napping room.

(4) A blanket or other item shall not be placed over sleeping equipment in such a way that prevents the caregiver from seeing the sleeping child.

(5) Whenever a child is in care, the child's parent shall have access to their child and the areas used to care for their child.

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

(a) each child is signed in and out;

(b) only parents or persons with written authorization from the parent may sign out a child;

(c) photo identification is required if the individual signing the child in or out is unknown to the provider;

(d) persons signing children in and out use identifiers, such as a signature, initials, or electronic code;

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

(f) there is written permission from their parents if school-age children sign themselves in and out.

(7) In an emergency, the caregiver shall accept the parent's verbal authorization to release a child when the caregiver can confirm the identity of:

(a) the person giving verbal authorization, and

(b) the person picking up the child.

(8) A six-week record of each child's daily attendance, including sign-in and sign-out records, shall be kept on-site for review by the Department.

R381-100-12. Child Guidance and Interaction.

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

(2) The provider shall inform parents, children, and those who interact with the children of the center's behavioral expectations and how any misbehavior will be handled.

~~(3) Individuals who interact with the children shall guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.~~

~~(4) Caregivers shall use gentle, passive restraint with children only when it is needed to stop children from injuring themselves or others, or from destroying property.~~

~~(5) Interactions with the children shall not include:~~

~~(a) any form of corporal punishment or any action that produces physical pain or discomfort such as hitting, spanking, shaking, biting, or pinching;~~

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

~~(c) shouting at children;~~

~~(d) any form of emotional abuse;~~

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

~~(f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.~~

~~(6) Any person who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in Utah Code Section 62A-4a-403 and Section 62A-4a-411.~~

R381-100-13. Child Safety and Injury Prevention.

~~(1) The building, outdoor area, toys, and equipment shall be used in a safe manner and as intended by the manufacturer to prevent injury to children.~~

~~(2) 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 center 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) Tobacco, e-cigarettes, e-juice, e-liquids, and similar products shall be inaccessible and, in compliance with the Utah Indoor Clean Air Act, 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.~~

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- ~~_____ (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) 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 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 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.~~~~

~~_____ (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.~~

~~_____ (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.~~

~~_____ (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.~~

~~_____ (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.~~

~~_____ (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.~~

R381-100-16. Food and Nutrition:

~~_____ (1) The provider shall ensure that each child age 2 years and older is offered a meal or snack at least once every 3 hours.~~

~~_____ (2) When food for children's meals and/or snacks is supplied by the provider:~~

~~_____ (a) the meal service shall meet local health department food service regulations;~~

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

~~_____ (c) the provider shall use the CACFP meal pattern requirements, the standard Department approved menus, or menus approved by a registered dietitian. Dietitian approval shall be noted and dated on the menus, and shall be current within the past 5 years;~~

~~_____ (d) the current week's menu shall be posted for review by parents and the Department; and~~

~~_____ (e) providers who are not participating or in good standing with the CACFP shall keep a six-week record of foods served at each meal and snack.~~

~~_____ (3) The person who serves food to children shall:~~

~~_____ (a) be aware of the children in their assigned group who have food allergies or sensitivities, and~~

~~_____ (b) ensure that the children are not served the food or drink they are allergic or sensitive to.~~

~~_____ (4) Children's food shall be served on dishes, napkins, or sanitary highchair trays, except an individual finger food, such as a~~

~~cracker, that may be placed directly in a child's hand. Food shall not be placed on a bare table.~~

~~_____ (5) Food and drink brought in by parents for their child's use shall be:~~

~~_____ (a) labeled with the child's name;~~

~~_____ (b) refrigerated if needed, and~~

~~_____ (c) consumed only by that child.~~

R381-100-17. Medications:

~~_____ (1) Nonrefrigerated medications shall be stored at least 48 inches above the floor or shall be locked.~~

~~_____ (2) Refrigerated medications shall be stored at least 36 inches above the floor or shall be locked, and if liquid, they shall be stored in a separate leakproof container.~~

~~_____ (3) All over the counter and prescription medications supplied by parents shall:~~

~~_____ (a) be labeled with the child's full name;~~

~~_____ (b) be kept in the original or pharmacy container;~~

~~_____ (c) have the original label, and~~

~~_____ (d) have child safety caps.~~

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

~~_____ (5) The medication permission form shall include:~~

~~_____ (a) the name of the child;~~

~~_____ (b) the name of the medication;~~

~~_____ (c) written instructions for administration, and~~

~~_____ (d) the parent signature and the date signed.~~

~~_____ (6) The instructions for administering the medication shall include:~~

~~_____ (a) the dosage;~~

~~_____ (b) how the medication will be given;~~

~~_____ (c) the times and dates to administer the medication, and~~

~~_____ (d) the disease or condition being treated.~~

~~_____ (7) If the provider supplies an over the counter medication for children's use, the medication shall not be administered to any child without previous parental consent for each instance it is given. The consent shall be:~~

~~_____ (a) prior written consent; or~~

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

~~_____ (8) The caregiver administering the medication shall:~~

~~_____ (a) wash their hands;~~

~~_____ (b) check the medication label to confirm the child's name if the parent supplied the medication;~~

~~_____ (c) check the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer, and~~

~~_____ (d) administer the medication.~~

~~_____ (9) Immediately after administering a medication, the caregiver giving the medication shall record the following information:~~

~~_____ (a) the date, time, and dosage of the medication given;~~

~~_____ (b) any errors in administration or adverse reactions; and~~

~~_____ (c) their signature or initials.~~

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

~~_____ (11) If the provider chooses not to administer medication as instructed by the parent, the provider shall notify the parent of their refusal to administer the medication before the time the medication needs to be given.~~

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

R381-100-18. Activities.

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

~~(2) Daily activities shall include outdoor play as weather and air quality allow.~~

~~(3) Physical development activities shall include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every 2 hours children spend in the program.~~

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

~~(a) activities that support children's healthy development, and~~

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

~~(5) Toys, materials, and equipment needed to support children's healthy development shall be available to the children.~~

~~(6) Except for occasional special events, 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 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) first aid 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 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.~~

~~(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.~~

~~(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.~~

~~(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.~~

~~(11) Unless prohibited in R381-100-19(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.~~

~~(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.~~

~~(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.~~

~~(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		Shredded Tires	
	Fine Sand	Coarse Sand	Fine Gravel	Medium Gravel	Shredded Tires	Shredded Tires
4' high or less	6"	6"	6"	6"	6"	6"
Over 4' up to 5'	6"	6"	6"	6"	6"	6"
Over 5' up to 6'	6"	9"	6"	9"	6"	6"
Over 6' up to 7'	9"	not allowed	9"	not allowed	9"	6"
Over 7' up to 8'	9"	not allowed	9"	not allowed	9"	6"
Over 8' up to 9'	9"	not allowed	9"	not allowed	9"	6"
Over 9' up to 10'	not allowed	not allowed	9"	not allowed	9"	6"
Over 10' up to 11'	not allowed	not allowed	not allowed	not allowed	not allowed	6"
Over 11' up to 12'	not allowed	not allowed	not allowed	not allowed	not allowed	6"

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

~~(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.~~

~~(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.~~

~~(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.~~

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

~~(20) Stationary play equipment shall be stable or securely anchored.~~

~~(21) There shall be no trampolines on the premises that are accessible to any child in care.~~

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

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

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

~~(25) There shall be no tripping hazards such as concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.~~

R381-100-20. 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.~~

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- ~~(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 first aid supplies, including at least antiseptic, band-aids, and tweezers.~~
- ~~(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 reptiles and amphibians.~~
- ~~(8) Dogs, cats, and ferrets that are housed at the facility shall have current rabies vaccinations.~~

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

R381-100-22. Rest and Sleep.

- ~~(1) The provider shall offer children in care a daily opportunity for rest or sleep in an environment with subdued lighting, a low noise level, and freedom from distractions.~~
- ~~(2) Nap or rest times shall not be scheduled for more than 2 hours daily.~~
- ~~(3) A separate crib, cot, mat, or other sleeping equipment shall be used for each child during nap times.~~
- ~~(4) Sleeping equipment shall be kept in good repair, including mats and mattresses that shall have smooth, waterproof surfaces.~~
- ~~(5) Each crib shall:~~
 - ~~(a) have a tight fitting mattress;~~
 - ~~(b) have slats spaced no more than 2 3/8 inches apart;~~
 - ~~(c) have at least 20 inches from the top of the mattress to the top of the crib rail, or at least 12 inches from the top of the mattress to the top of the crib rail if the child using the crib cannot sit up without assistance;~~
 - ~~(d) not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child; and~~
 - ~~(e) meet CPSC standards.~~
- ~~(6) When in use, sleeping equipment such as cribs, cots, and mats shall be placed at least 2 feet apart.~~
- ~~(7) Sleeping equipment shall not block exits.~~
- ~~(8) During nap time, a sheet and blanket or acceptable alternative shall be made available to each child 12 months or older. These items shall be:~~
 - ~~(a) clearly assigned to one child,~~
 - ~~(b) stored separately from other children's bedding, and~~
 - ~~(c) laundered as needed, but at least once a week, and before use by another child.~~
- ~~(9) Sleeping equipment that is clearly assigned to and used by an individual child shall be cleaned and sanitized as needed and at least weekly.~~
- ~~(10) Sleeping equipment that is not clearly assigned to and used by an individual child shall be cleaned and sanitized before each use.~~
- ~~(11) The provider shall store sleeping equipment so that:~~
 - ~~(a) the surfaces children sleep on do not touch each other, or~~
 - ~~(b) the provider shall clean and sanitize sleeping equipment before each use.~~

R381-100-23. Diapering.

- ~~If the provider accepts children who wear diapers:~~
 - ~~(1) The provider shall post diapering procedures at each diapering station and ensure that they are followed.~~
 - ~~(2) Caregivers shall ensure that each child's diaper is:~~
 - ~~(a) checked at least once every 2 hours,~~
 - ~~(b) promptly changed when wet or soiled, and~~
 - ~~(c) checked as soon as a sleeping child awakens.~~
 - ~~(3) Caregivers shall change children's diapers at a diapering station. Diapers shall not be changed on surfaces used for any other purpose.~~
 - ~~(4) The diapering surface shall be smooth, waterproof, and in good repair.~~
 - ~~(5) Each diapering station shall be equipped with railings to prevent a child from falling when being diapered.~~
 - ~~(6) Caregivers shall not leave children unattended on the diapering surface.~~

- ~~(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.~~
- ~~(8) Caregivers shall wash their hands after each diaper change.~~
- ~~(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.~~
- ~~(10) Indoor containers where wet and soiled diapers are placed shall be cleaned and sanitized each day.~~
- ~~(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.~~
- ~~(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.~~
- ~~(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.~~
- ~~(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.]~~

R381-100-1. Legal Authority and Purpose.

- ~~(1) This rule is enacted and enforced in accordance with Utah Code, Title 26, Chapter 39.~~
- ~~(2) This rule establishes the foundational standards necessary to protect the health and safety of children in child care centers and defines the general procedures and requirements to get and maintain a license to provide child care.~~

R381-100-2. Definitions.

- ~~(1) "Applicant" means a person or business who has applied for a new or a renewal of a license from Child Care Licensing.~~
- ~~(2) "Background Finding" means information in a background check that may result in a denial from Child Care Licensing.~~
- ~~(3) "Background Check Denial" means that an individual has failed the background check and is prohibited from being involved with a child care program.~~
- ~~(4) "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.~~
- ~~(5) "Body Fluid" means blood, urine, feces, vomit, mucus, or saliva.~~
- ~~(6) "Business Days and Hours" means the days of the week and times the facility is open for business.~~
- ~~(7) "Capacity" means the maximum number of children for whom care can be provided at any given time.~~
- ~~(8) " Caregiver-to-Child Ratio" means the number of caregivers responsible for a specific number of children.~~
- ~~(9) "CCL" means the Child Care Licensing Program in the Department of Health that is delegated with the responsibility to enforce the Utah Child Care Licensing Act.~~

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(10) "Child Care" means continuous care and supervision of five or more qualifying children that is:

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

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

(c) for direct or indirect compensation.

(11) "Child Care Center Licensing Committee" means the Child Care Center Licensing Committee created in the Utah Child Care Licensing Act.

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

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

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

(15) "Covered Individual" means any of the following individuals involved with a child care program:

(a) an owner;

(b) a director;

(c) a member of the governing body;

(d) an employee;

(e) a caregiver;

(f) a volunteer, except a parent of a child enrolled in the child care program;

(g) an individual age 12 years old or older who resides in the facility; and

(h) anyone who has unsupervised contact with a child in care.

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

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

(18) "Designated Play Surface" means any accessible elevated surface for standing, walking, crawling, sitting or climbing; or an accessible flat surface at least two by two inches in size and having an angle less than 30 degrees from horizontal.

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

(20) "Emotional Abuse" means behavior that could harm a child's emotional development, such as threatening, intimidating, humiliating, demeaning, criticizing, rejecting, using profane language, or using inappropriate physical restraint.

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

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

(23) "Group" means the children who are assigned to and supervised by one or more caregivers.

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

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

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

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

(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 at least 36 inches above the floor; or

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

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

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

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

(a) care for or supervise children;

(b) volunteer;

(c) own, operate, direct;

(d) reside;

(e) count in the caregiver-to-child ratio; or

(f) have unsupervised contact with a child in care.

(32) "License" means a license issued by the department to provide child care services.

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

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

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

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

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

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

(39) "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.

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

(41) "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.

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

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

(44) "Qualifying Child" means:

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

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

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

(45) "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.

(46) "Room" is defined by the department as follows:

If a large room is divided into smaller rooms or areas with barriers such as furniture or with half walls, the room or area is considered:

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

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

(c) Two rooms, if the room is divided by a solid barrier that is between 24 and 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked such as with a child safety gate. This also applies to a diaper changing station that is located behind a closed gate.

(d) Two rooms, if the room is divided by a solid barrier that is over 40 inches in height and there is no opening in the barrier through which caregivers and children can move freely, or there is an opening between the two sides but the opening is blocked such as with a child safety gate. If there is an opening through which caregivers and children can move freely and the opening is not blocked, refer to the instructions for a large opening, archway, or doorway.

If two rooms or areas are connected by a large opening, archway, or doorway, the rooms or areas are considered:

(e) One room, if the width of the opening or archway is equal to or greater than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas, and there is no furniture or other dividers blocking the opening or archway. Otherwise the department shall consider this to be two rooms.

(f) Two rooms, if the width of the opening or archway is smaller than the combined width of the walls on each side of the opening or archway, in the larger of the two rooms or areas.

If in outdoor areas separated by interior fences, the department considers it:

(g) One area, if the interior fence is lower than 24 inches in height, whether or not the fence has an opening.

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

(i) Two areas if the interior fence is higher than 24 inches and there is no opening.

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

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

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

(49) "Sexual Abuse" means to take indecent liberties with a child with the intention to arouse or gratify the sexual desire of an individual or to cause pain or discomfort.

(50) "Sexually Explicit Material" means any depiction of actual or simulated sexually explicit conduct.

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

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

(a) a sandbox;

(b) a stationary circular tricycle;

(c) a sensory table; or

(d) a playhouse that sits on the ground or floor and has no attached equipment, such as a slide, swing, or climber.

(53) "Strangulation Hazard" means something on which a child's clothes or drawstrings could become caught, or something in which a child could become entangled such as:

(a) a protruding bolt end that extends more than two 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 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.

(54) "Toddler" means a child age 12 through 23 months old.

(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 check.

(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.

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

(58) "Working Days" means the days of the week the department is open for business.

R381-100-3. License Required.

(1) A person shall be licensed as a child care center if they provide care:

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

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

(c) for five or more unrelated children;

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

(e) on an ongoing basis for four or more weeks in a year; and

(f) for direct or indirect compensation.

(2) A person who is not required to be licensed may voluntarily become licensed, except for care that is for related children only or on a sporadic basis.

(3) A provider may be licensed to provide child care in a facility that is also licensed to offer foster or respite care services, or another licensed or certified human services program if the part of the building requesting a CCL license is physically separated from the other building services.

R381-100-4. License Application, Renewal, Changes, and Variances.

(1) Each applicant for a new child care license shall:

(a) submit an online application;

(b) submit a copy of a current local fire clearance or a statement from the local fire authority that a fire inspection is not required;

(c) submit 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) submit a copy of a current local business license or a statement from the city that a business license is not required;

(e) submit a copy of the educational credentials of the individual who will be the director as required in Section R381-100-7;

(f) complete CCL background checks for covered individuals as required in Section R381-100-8;

(g) complete CCL new provider training no more than six months before becoming licensed; and

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(h) pay any required fees, which are nonrefundable.

(2) Each 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 an applicant for a new license or a renewal does not require a fire inspection, the department shall verify the applicant's compliance with the following:

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

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

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

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

(e) exits are clearly identified;

(f) there is at least one unobstructed fire extinguisher on each level of the building, currently charged and serviced, and mounted not more than five feet above the floor;

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

(h) boiler, mechanical, and electrical panel rooms are not used for storage.

(4) If an applicant for a new license or a renewal serves food and the local health department states that a kitchen inspection is not required, the department shall verify the applicant's compliance with the following:

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

(b) there is a working thermometer in the refrigerator;

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

(d) cooks have a current food handler's permit available on-site for review by the department;

(e) cooks use hair restraints and wear clean outer clothing;

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

(g) reusable food holders, utensils, and food preparation surfaces are washed, rinsed, and sanitized before each use;

(h) chemicals are stored away from food and food service items;

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

(j) there is a working handwashing sink in the kitchen and handwashing instructions posted by the sink.

(5) Each applicant shall have six months from the time any portion of the application is submitted to finish the licensing process. If unsuccessful, the applicant shall reapply. Any resubmission must include the required documentation, payment of licensing fees, and a new inspection of the facility in order to be licensed.

(6) The department may deny an application for a license if, within the five 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 a rule violation 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, each 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) The department may grant a provider who fails to renew their license by the expiration date an additional 30 days to complete the renewal process if the provider pays a late fee.

(10) The department may deny renewal of a license for a provider who is no longer caring for children.

(11) Each 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) A provider shall submit a complete online changes request 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 type 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) Only the department may assign, transfer, or amend a license.

(15) If an applicant or provider cannot comply with a rule but can meet the intent of the rule in another way, the applicant or provider 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) Each provider shall comply with the existing rules until a variance is approved by the department.

(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) fails to allow authorized representatives of the department access to the facility to ensure compliance with this rule;

(f) fails to submit or make available to the department any written documentation required to verify compliance with this rule;

(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 an individual from having a license.

(5) Within ten 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 the children's 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 a child care provider to suspend services and 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 four 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 the 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 a day as provided in Section 26-39-601.

(12) The department may assess a civil money penalty and also take action to deny, place on conditional status, revoke, immediately close, or refuse to renew a license.

(13) 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 checks, civil money penalties, and other fees assessed by the department.

(14) An applicant or provider may appeal any department decision within 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 old;

(b) pass a CCL background 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 and contact information of the individual or individuals who shall legally represent them and who shall comply with the requirements stated in Subsection R381-100-6(1).

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

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

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

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

(7) The provider shall post a current copy of 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:

(a) have liability insurance; or

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

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

(11) The provider shall ensure that each child's admission and health assessment form includes 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 individuals authorized by the parent to sign the child out from the facility;

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

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

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

(h) any known allergies of the child;

(i) any known food sensitivities of the child;

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

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

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

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

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

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

(b) kept on-site for review by the department.

(13) Before admitting any child younger than five years old into the child care program, including the provider's and employees' own children, the provider shall get the following documentation from the child's parent:

(a) current immunizations;

(b) a medical schedule to receive required immunizations;

(c) a legal exemption; or

(d) a 90-day exemption for children who are homeless.

(14) For each child younger than five years old, including the provider's and employees' own children, the provider shall keep their current immunization records on-site for review by the department.

(15) The provider shall submit the annual immunization report to the Immunization Program in the Utah Department of Health by the date specified by the department.

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

R381-100-7. Personnel and Training Requirements.

(1) The provider shall ensure that employees and volunteers are supervised, qualified, and trained to:

(a) meet the needs of the children as required by rule; and

(b) be in compliance with licensing rules.

(2) The provider shall ensure that the center has a qualified director as required by licensing rules.

(3) The provider shall ensure that the director:

(a) is at least 21 years old;

(b) passes a CCL background check;

(c) receives at least 2-1/2 hours of preservice training before beginning job duties;

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

(e) knows and follows any applicable laws and rules; and

(f) completes at least 20 hours of child care training each year based on the facility's license date, or at least 1-1/2 hours of child care training each month they work if hired partway through the facility's licensing year.

(4) The provider shall ensure that each new director has 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 and 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 and emotional development, and the child care environment; or 60 clock hours of equivalent training as approved by the department.

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

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

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

(a) is at least 21 years old;

(b) passes a CCL background check;

(c) receives at least 2-1/2 hours of preservice training before beginning job duties;

(d) knows and follows any applicable laws and rules; and

(e) completes at least 20 hours of child care training each year based on the facility's license date, or at least 1-1/2 hours of child care training each month they work if hired partway through the facility's licensing year.

(8) The provider shall ensure that the director or the director designee is present at the facility when the center is open for care.

(9) The provider shall ensure that caregivers:

(a) are at least 16 years old;

(b) pass a CCL background check;

(c) receive at least 2-1/2 hours of preservice training before caring for children;

(d) know and follow any applicable laws and rules;

(e) complete at least 20 hours of child care training each year, based on the facility's license date, or at least 1-1/2 hours of child care training each month they work if hired partway through the facility's licensing year; and

(f) do not have unsupervised contact with any child in care, including during offsite activities and transportation, if the caregivers are younger than 18 years old.

(10) The provider shall ensure that any other employees such as drivers, cooks, and clerks:

(a) pass a CCL background check;

(b) receive at least 2-1/2 hours of preservice training before beginning job duties;

(c) know and follow any applicable laws and rules, and

(d) do not have unsupervised contact with any child in care, including during offsite activities and transportation, if the employee is younger than 18 years old.

(11) The provider shall ensure that volunteers:

(a) pass a CCL background check; and

(b) do not have unsupervised contact with any child in care, including during offsite activities and transportation, if the volunteer is younger than 18 years old.

(12) The provider shall ensure that guests:

(a) do not have unsupervised contact with any child in care, including during offsite activities and transportation; and

(b) wear a guest nametag.

(13) The provider shall ensure that student interns who are registered and participating in a high school or college child care course:

(a) do not have unsupervised contact with any child in care, including during offsite activities and transportation; and

(b) wear a guest nametag.

(14) The provider shall ensure that parents of children in care do not have unsupervised contact with any child in care, except with their own children.

(15) The provider shall ensure that household members who are:

(a) 12 to 17 years old pass a CCL background check and do not have unsupervised contact with any child in care, including during offsite activities and transportation; and

(b) 18 years old or older pass a CCL background check that includes fingerprints.

(16) The provider shall ensure that individuals who provide Individualized Educational Plan (IEP) or Individualized Family Service plan (IFSP) services such as physical, occupational, or speech therapists:

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

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

(17) The provider shall ensure that individuals from law enforcement, Child Protective Services, the department, and any similar entities provide proper identification before having access to the facility or to a child at the facility.

(18) The provider shall ensure that preservice training includes at least the following topics:

(a) job description and duties;

(b) current department rule Sections R381-100-7 through R381-100-24;

(c) disaster preparedness, response, and recovery;

(d) pediatric first aid and cardio pulmonary resuscitation (CPR);

(e) children with special needs;

(f) safe handling and disposal of hazardous materials;

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

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

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

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

(k) recognizing the signs of homelessness and available assistance;

(l) a review of the information in each child's health assessment in the caregiver's assigned group, including allergies, food sensitivities, and other special needs; and

(m) an introduction and orientation to the children in care.

(19) The provider shall keep documentation of each individual's preservice training on-site for review by the department and shall ensure that documentation includes at least the following:

(a) training topics;

(b) date of the training; and

(c) total hours or minutes of training.

(20) The provider shall ensure that annual child care training includes at least the following topics:

(a) current department rule Sections R381-100-7 through R381-100-24;

(b) disaster preparedness, response, and recovery;

(c) pediatric first aid and CPR;

(d) children with special needs;

(e) safe handling and disposal of hazardous materials;

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

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

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

(i) prevention of sudden infant death syndrome (SIDS) and use of safe sleeping practices; and

(j) recognizing the signs of homelessness and available assistance.

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

(a) training topic;

(b) date of the training;

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

(d) total hours or minutes of training.

(22) When there are children at the center, the provider shall ensure that there is at least one staff member present who can demonstrate English literacy skills needed to care for children and respond to emergencies.

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

(a) at the facility;

(b) in each vehicle transporting children; and

(c) at each offsite activity.

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

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

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

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

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

R381-100-8. Background Checks.

(1) Before a new covered individual becomes involved with child care in the program, the provider shall use the CCL provider portal search to:

(a) verify that the individual has a current CCL background check; and

(b) associate that individual with their facility if the covered individual appears in the search.

(2) Before a new covered individual who does not appear in the CCL provider portal search becomes involved with child care in the program, the provider shall:

(a) have the individual submit an online background check form and fingerprints for individuals age 18 years old and older;

(b) authorize the individual's background check through the CCL provider's portal;

(c) pay any required fees; and

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

(3) The department may include a covered individual by name on the CCL provider portal and consider that covered individual's background check to be current if the covered individual has:

(a) passed a CCL background check;

(b) resided in Utah since the last background check was completed; and

(c) been associated with an active, CCL approved child care facility within the past 180 days.

(4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall:

(a) ensure that an online background check form is submitted;

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(b) authorize the child's background check through the CCL provider's portal; and

(c) pay any required fees.

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

(6) If fingerprints are submitted electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows the department's guidelines.

(7) The department may deny a covered individual from being involved with child care for any of the following background findings:

(a) LIS supported findings;

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

(c) any felony convictions; or

(d) for any of the reasons listed under Subsection R381-100-8(8).

(8) The department may also deny a covered individual from being involved with child care for any of the following convictions regardless of severity:

(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 an individual;

(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.

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

(10) If the provider fails to pass a background check, the department may suspend or deny their license until the reason for the denial is resolved.

(11) 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.

(12) 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 to the Department of Public Safety.

(13) If a covered individual disagrees with a supported finding on the Department of Human Services Licensing Information

System (LIS), the covered individual may appeal the finding to the Department of Human Services.

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

(15) The Executive Director of the Department of Health may overturn a background check denial if 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) The provider shall ensure that there is at least 35 square feet of indoor space for each child in care, including the provider's and employees' children.

(2) The department may include as indoor space per child 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 materials for children.

(3) The department may not include the following areas 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 department may limit the maximum allowed capacity for a child care facility based on local ordinances.

(5) The provider shall ensure that the number of children in care at any given time does 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 five working days and follow required procedures for remediation of the lead hazard.

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

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

(9) The provider shall ensure that rooms and areas 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) The provider shall ensure that there is a working telephone at the facility, in each vehicle while transporting children, and during offsite activities.

(12) The provider shall ensure that there is a working handwashing sink in each classroom or next to each classroom in buildings constructed after July 1, 1997.

(13) The provider shall ensure that rooms where infants or toddlers are cared for have:

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

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

(14) The provider shall ensure that:

(a) there is one working toilet and one working sink for each group of 15 children younger than five years old in the center who are toilet trained; and

(b) there is one working toilet and one working sink for each group of 25 school-age children in the center.

(15) The provider shall ensure that there is at least one bathroom that provides privacy available for use by school-age children.

(16) The provider shall ensure that there is an outdoor area that is safely accessible to children.

(17) The provider shall ensure that the outdoor area has at least 40 square feet of space for each child using the area at one time.

(18) The provider shall ensure that the total square footage of the outdoor area accommodates at least one-third of the approved capacity at one time or is at least 1600 square feet.

(19) The provider shall ensure that the outdoor area is enclosed within a fence, wall, or solid natural barrier that is at least four feet high.

(20) The provider shall ensure that there is no gap five by five inches or greater in or under the fence or barrier.

(21) The provider shall ensure that children are in an enclosed area when children are outdoors, except during offsite activities.

(22) The provider shall ensure that there is shade available to protect the children from excessive sun and heat when children are in the outdoor area.

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

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

(b) maintain the pool in a safe manner; and

(c) when not in use, cover the pool with a commercially-made safety enclosure that is installed according to the manufacturer's instructions, or enclose the pool within at least a four-foot-high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises.

(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) The provider shall ensure that accessible raised decks or balconies that are five feet or higher, and open stairwells that are five feet or deeper have protective barriers that are at least three 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 department may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with the rules, except when 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.

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 with two caregivers
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		

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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 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) The provider shall ensure that infants and toddlers are included in mixed-age groups only when eight or fewer children are present in the group.

(4) Unless permitted in table 2, if more than two children who are younger than 24 months old are included in a mixed-age group, and the group has more than four children, the provider shall ensure that there are at least two caregivers with the group.

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

(a) the children in the group are at least 18 months old;

(b) the children in the group are in a restful and nonactive state; and

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

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

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

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

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

(8) The provider may include caregivers, student interns who are registered in a high school or college child care course, and volunteers who are 16 or 17 years old in the caregiver-to-child ratio.

(9) The provider shall ensure that guests do not count in caregiver-to-child ratios.

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

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

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

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

R381-100-11. Child Supervision and Security.

(1) The provider shall ensure that caregivers provide and maintain active supervision of each child, including:

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

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

(c) caregivers know the number of children in their care at any time;

(d) caregivers' attention is focused on the children and not on caregivers' personal interests;

(e) caregivers are aware of the entire group of children even when interacting with a smaller group or an individual child; and

(f) caregivers position themselves so each child in their assigned group is actively supervised.

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

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

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

(c) cameras or mirrors are positioned so that the staff member can see and hear each child;

(d) there is an open door without a barrier, such as a gate, between the napping room and the non-napping room; and

(e) the staff member moves children who wake up to the non-napping room.

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

(4) The provider shall ensure that parents have access to their child and the areas used to care for their child when their child is in care.

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

(a) each child is signed in and out;

(b) only parents or individuals with written authorization from the parent may sign out a child;

(c) photo identification is required if the individual signing the child out is unknown to the provider;

(d) individuals signing children in and out use identifiers, such as a signature, initials, or electronic code;

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

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

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

(a) the individual giving verbal authorization; and

(b) the individual picking up the child.

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

R381-100-12. Child Guidance and Interaction.

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

(2) The provider shall inform parents, children, and those who interact with the children of the center's behavioral expectations and how any misbehavior will be handled.

(3) The provider shall ensure that individuals who interact with the children guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.

(4) The provider shall ensure that caregivers use gentle, passive restraint with children only when it is needed to protect children from injuring themselves or others, or to stop them from destroying property.

(5) The provider shall ensure that interactions with the children do not include:

(a) any form of corporal punishment or any action that produces physical pain or discomfort such as hitting, spanking, shaking, biting, or pinching;

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

(c) shouting at children;

(d) any form of emotional abuse;

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

(f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.

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

R381-100-13. Child Safety and Injury Prevention.

(1) The provider shall ensure that the building, outdoor area, toys, and equipment are used in a safe manner and as intended by the manufacturer to prevent injury to children.

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(2) The provider shall ensure that poisonous and harmful plants are inaccessible to children.

(3) The provider shall ensure that sharp objects, edges, corners, or points that could cut or puncture skin are inaccessible to children.

(4) The provider shall ensure that choking hazards are inaccessible to children younger than three years old.

(5) The provider shall ensure that strangulation hazards such as ropes, cords, chains, and wires attached to a structure and long enough to encircle a child's neck are inaccessible to children.

(6) The provider shall ensure that tripping hazards such as unsecured flooring, rugs with curled edges, or cords in walkways are inaccessible to children.

(7) The provider shall ensure that empty plastic bags large enough for a child's head to fit inside, latex gloves, and balloons are inaccessible to children younger than five years old.

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

(9) The provider shall ensure that toxic or hazardous chemicals such as cleaners, insecticides, lawn products, and flammable, corrosive, and reactive materials are:

(a) inaccessible to children;

(b) used according to manufacturer instructions;

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

(d) disposed of properly.

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

(a) matches or cigarette lighters;

(b) open flames;

(c) hot wax or other hot substances; and

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

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

(a) live electrical wires; and

(b) for children younger than five years old, 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, the provider shall ensure that firearms such as guns, muzzleloaders, rifles, shotguns, hand guns, pistols, and automatic guns are:

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

(b) stored unloaded and separate from ammunition.

(13) The provider shall ensure that weapons such as paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace are inaccessible to children.

(14) The provider shall ensure that alcohol, illegal substances, and sexually explicit material are inaccessible, and not used on the premises, during offsite activities, or in center vehicles any time a child is in care.

(15) The provider shall ensure that an outdoor source of drinking water, such as individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain is available to each child when the outside temperature is 75 degrees or higher.

(16) The provider shall ensure that areas accessible to children are free of heavy or unstable objects that children could pull down on themselves, such as furniture, unsecured televisions, and standing ladders.

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

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

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

(20) The provider shall ensure that tobacco, e-cigarettes, e-juice, e-liquids, and similar products are inaccessible and, in compliance with the Utah Indoor Clean Air Act, 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, Response, and Recovery.

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

(a) includes procedures for evacuation, relocation, shelter in place, lockdown, communication with and reunification of families, and continuity of operations;

(b) includes procedures for accommodations for infants and toddlers, children with disabilities, and children with chronic medical conditions;

(c) is available for review by parents, staff, and the departments during business hours; and

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

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

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

(4) The provider shall conduct fire evacuation drills monthly and make sure drills include a complete exit of each child, staff, and volunteers from the building.

(5) 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 individual supervising the drill;

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

(e) any problems encountered and remediation.

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

(7) 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 individual supervising the drill; and

(e) any problems encountered and remediation.

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

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

(10) The provider shall:

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

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

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

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

(12) If a life-threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb happens, the provider shall:

(a) call emergency personnel immediately;

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

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

(13) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall:

(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 five business days of the incident.

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

R381-100-15. Health and Infection Control.

(1) The provider shall keep the building, furnishings, equipment, and outdoor area clean and sanitary including:

(a) walls and flooring clean and free of spills, dirt, and grime;

(b) areas and equipment used for the storage, preparation, and service of food clean and sanitary;

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

(d) the building and grounds free of a build-up of litter, trash, and garbage;

(e) frequently touched surfaces, including doorknobs and light switches, cleaned and sanitized; and

(f) the facility free of animal feces.

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

(3) The provider shall clean and sanitize any toys and materials used by children:

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

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

(c) after being contaminated by a body fluid.

(4) The provider shall ensure that fabric toys and items such as stuffed animals, cloth dolls, pillow covers, and dress-up clothes are machine washable and if used, washed at least each week or as needed.

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

(6) The provider shall clean and sanitize water play tables or tubs daily if used by the children.

(7) The provider shall clean and sanitize bathroom surfaces including toilets, sinks, faucets, toilet and sink handles, and counters each day the facility is open for business.

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

(9) The provider shall keep toilet paper in a dispenser that is accessible to children.

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

(11) The provider shall ensure that staff and volunteers wash their hands thoroughly with liquid soap and running water:

(a) upon arrival;

(b) before handling or preparing food or bottles;

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

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

(e) after contact with a body fluid;

(f) when coming in from outdoors; and

(g) after cleaning up or taking out garbage.

(12) The provider shall ensure that caregivers teach children how to wash their hands thoroughly and oversee handwashing when possible.

(13) The provider shall ensure that children wash their hands thoroughly with liquid soap and running water:

(a) upon arrival;

(b) before and after eating meals and snacks;

(c) after using the toilet;

(d) after contact with a body fluid;

(e) before using a water play table or tub; and

(f) when coming in from outdoors.

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

(15) The provider shall store personal hygiene items, such as toothbrushes, combs, and hair accessories separate, so they do not touch each other, and ensure they are not shared or they are sanitized between each use.

(16) The provider shall ensure that pacifiers, bottles, and nondisposable drinking cups are:

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

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

(17) The provider shall ensure that a child's clothing is promptly changed if the child has a toileting accident.

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

(a) not rinsed or washed at the center;

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

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

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

(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.

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

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

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

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

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

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

(a) does not disclose any personal identifiable information;

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

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

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

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

(a) individuals who prepare food in the kitchen do not change diapers or help in toileting children;

(b) caregivers who care for diapered children only prepare food for the children in their care, and they do 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, coughing, or vomiting do not prepare or serve foods.

R381-100-16. Food and Nutrition.

(1) The provider shall offer a meal or snack to each child age two years old and older at least once every three hours.

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

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

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

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

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

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

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

(a) is aware of the children in their assigned group who have food allergies or sensitivities; and

(b) ensures that the children are not served the food or drink they are allergic or sensitive to.

(4) The provider shall not place children's food on a bare table, and shall serve children's food on dishes, napkins, or sanitary highchair trays, except an individual finger food such as a cracker, which may be placed directly in a child's hand.

(5) If parents bring food and drink for their child's use, the provider shall ensure that the food is:

(a) labeled with the child's name;

(b) refrigerated if needed; and

(c) consumed only by that child.

R381-100-17. Medications.

(1) The provider shall lock nonrefrigerated medications or store them at least 48 inches above the floor.

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

(3) If parents supply any over-the-counter or prescription medications, the provider shall ensure those medications are:

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

(b) kept in the original or pharmacy container;

(c) have the original label; and

(d) have child-safety caps.

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

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

(a) the name of the child;

(b) the name of the medication;

(c) written instructions for administration; and

(d) the parent signature and the date signed.

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

(a) the dosage;

(b) how the medication will be given;

(c) the times and dates to administer the medication; and

(d) the disease or condition being treated.

(7) If the provider supplies an over-the-counter medication for children's use, the provider shall ensure that the medication is not administered to any child without previous parental consent for each instance it is given. The provider shall ensure that the consent is:

(a) written; or

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

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

(a) washes their hands;

(b) check the medication label to confirm the child's name if the parent supplied the medication;

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

(d) administers the medication.

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

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

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

(c) their signature or initials.

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

(11) The provider shall notify the parent before the time a medication needs to be given to a child if the provider chooses not to administer medication as instructed by the parent.

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

R381-100-18. Activities.

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

(2) The provider shall ensure that daily activities include outdoor play as weather and air quality allow.

(3) The provider shall ensure that physical development activities include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every two hours 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) The provider shall ensure that toys, materials, and equipment needed to support children's healthy development are available to the children.

(6) Except for occasional special events, the provider shall ensure that the children's primary screen time activity on media such as television, cell phones, tablets, and computers is:

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

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

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

(7) If swimming activities are offered or if wading pools are used, the provider shall ensure that:

(a) the parent gives permission before their child in care uses the pool;

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

(c) diapered children wear swim diapers when they are in the pool;

(d) wading pools are emptied and sanitized after use by each group of children;

(e) if the pool is over four feet deep, there is 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 do not count toward the caregiver-to-child ratio.

(8) If offsite activities are offered, the provider shall ensure that:

(a) the parent gives written consent before each activity;

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

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

(d) children wear or carry with them the name and phone number of the center;

(e) children's names are not used on nametags, t-shirts, or in other visible ways; and

(f) there is a way for caregivers and children to wash their hands with soap and water, or with wet wipes and hand sanitizer if there is no source of running water.

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

(a) the child's name;

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

(c) the name and phone number of an individual to notify if an emergency happens and 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 provider shall ensure that the highest designated play surface on stationary play equipment used by infants or toddlers does not exceed three feet in height.

(3) The provider shall ensure that swings used by infants or toddlers have enclosed seats.

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

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

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

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

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

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

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

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

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

(8) The provider shall ensure that the use zone for a merry-go-round extends:

(a) at least three feet in any direction from its outermost edge if the merry-go-round is used by infants or toddlers; or

(b) at least six feet in any direction from its outermost edge if the merry-go-round is used by preschoolers or school-age children.

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

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

(b) at least six feet from the outermost edge of the rocker when at rest if the seat is higher than 20 inches, and the rocker is used by preschoolers or school-age children.

(10) The provider shall ensure that the following use zones do not overlap the use zone of any other piece of play equipment:

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- (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.

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

- (a) the equipment is used by infants or toddlers, and there is at least three feet between the pieces of equipment; or
- (b) the equipment is used by preschoolers or school-age children and there is at least six feet between the pieces of equipment if the designated play surface is 30 inches or lower, or there is at least nine feet between the pieces of equipment if the designated play surface is higher than 30 inches.

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

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

(14) If sand, gravel, or shredded tires are used as protective cushioning, the provider shall:

- (a) ensure that the cushioning is periodically checked for compaction and loosened to the depth listed in Table 14 if compacted;
- (b) if the material cannot be loosened due to extreme weather conditions, not allow children to play on the equipment until the material can be loosened to the required depth; and
- (c) ensure that the depth of the material meets the guidelines in Table 14.

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		Shredded Tires	
	Fine Sand	Coarse Sand	Fine Gravel	Medium Gravel	Shredded Tires	
Up to 5' high	6"	6"	6"	6"	6"	
Over 5' up to 6'	6"	9"	6"	9"	6"	
Over 6' up to 9'	9"	not allowed	9"	not allowed	6"	
Over 9' up to 10'	not allowed	not allowed	9"	not allowed	6"	
Over 10' up to 12'	not allowed	not allowed	not allowed	not allowed	6"	

(15) If shredded wood products are used as protective cushioning, the provider shall:

- (a) keep on-site for review by the department documentation from the manufacturer that the wood product is protective cushioning;
- (b) ensure there is adequate drainage under the material; and
- (c) ensure the depth of the shredded wood meets the 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
	Up to 6' high	6"	6"
Over 6' up to 7'	9"	6"	9"
Over 7' up to 11'	9"	9"	9"
Over 11'	9"	not allowed	not allowed

(16) If a unitary cushioning is used, the provider shall maintain on-site for review by the department documentation from the manufacturer that the material is cushioning for playgrounds.

(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.

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

- (a) 18 inches above the floor or ground and used by infants or toddlers has a protective barrier that is at least 24 inches high;
- (b) 30 inches above the floor or ground and used by preschoolers has 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 has a protective barrier that is at least 38 inches high.

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

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

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

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

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

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

(25) The provider shall ensure that there are no tripping hazards such as concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.

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

- (a) is enclosed with a roof or top;
- (b) is equipped with safety restraints;
- (c) has a current vehicle registration;
- (d) is maintained in a safe and clean condition; and
- (e) contains first aid supplies, including at least antiseptic, bandages, and tweezers.
- (3) The provider shall ensure that the safety restraints in each vehicle that transports children are:
 - (a) appropriate for the age and size of each child who is transported, as required by Utah law;
 - (b) properly installed; and
 - (c) in safe condition and working order.
- (4) The provider shall ensure that the driver of each vehicle who is transporting children:
 - (a) is at least 18 years old;
 - (b) has and carries with them a current, valid driver's license for the type of vehicle being driven;
 - (c) has with them the written emergency contact information for each child being transported;
 - (d) ensures that each child being transported is in an individual safety restraint that is used according to Utah law;
 - (e) ensures that the inside vehicle temperature is between 60-85 degrees Fahrenheit;
 - (f) never leaves a child in the vehicle unattended by an adult;
 - (g) ensures that children stay seated while the vehicle is moving;
 - (h) never leaves the keys in the ignition when not in the driver's seat; and
 - (i) ensures that the vehicle is locked during transport.
- (5) If 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 the children;
 - (c) the caregiver-to-child ratio is maintained; and
 - (d) a caregiver with the children has written emergency contact information and releases for the children being transported.

R381-100-21. Animals.

- (1) The provider shall inform parents of the kinds of animals allowed at the facility.
- (2) The provider shall ensure that there is 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 individual.
- (3) The provider shall ensure that animals at the facility are clean and free of obvious disease or health problems that could adversely affect children.
- (4) The provider shall ensure that there is no animal or animal equipment in food preparation or eating areas.
- (5) The provider shall ensure that children younger than five years old do 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 provider shall ensure that the children wash their hands immediately after cleaning the animal or equipment.
- (7) The provider shall ensure that children and staff wash their hands immediately after playing with or touching reptiles and amphibians.

- (8) The provider shall ensure that dogs, cats, and ferrets that are housed at the facility have current rabies vaccinations.
- (9) The provider shall keep current animal vaccination records on-site for review by the department.

R381-100-22. Rest and Sleep.

- (1) The provider shall offer children in care a daily opportunity for rest or sleep in an environment with subdued lighting, a low noise level, and freedom from distractions.
- (2) The provider shall not schedule nap or rest times for more than two hours a day.
- (3) The provider shall use a separate crib, cot, mat, or other sleeping equipment for each child during nap times.
- (4) The provider shall keep sleeping equipment in good repair, including that mats and mattresses have smooth, waterproof surfaces.
- (5) The provider shall ensure that each crib:
 - (a) has a tight-fitting mattress;
 - (b) has slats spaced no more than 2-3/8 inches apart;
 - (c) has at least 20 inches from the top of the mattress to the top of the crib rail, or at least 12 inches from the top of the mattress to the top of the crib rail if the child using the crib cannot sit up without assistance;
 - (d) does not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child; and
 - (e) has documentation from the manufacturer or retailer stating that the crib was built after June 28, 2011, or that the crib is certified if the crib was manufactured before that date.
- (6) When in use, the provider shall place sleeping equipment such as cribs, cots, and mats at least two feet apart.
- (7) The provider shall ensure that sleeping equipment does not block exits.
- (8) The provider shall make a sheet and blanket or acceptable alternative available to each child 12 months or older during nap time, and ensure that these items are:
 - (a) clearly assigned to one child;
 - (b) stored separately from other children's bedding; and
 - (c) laundered as needed, but at least once a week, and before use by another child.
- (9) The provider shall clean and sanitize sleeping equipment that is not clearly assigned to and used by an individual child before each use.
- (10) The provider shall:
 - (a) store sleeping equipment in a way the surfaces children sleep on do not touch each other; or
 - (b) clean and sanitize sleeping equipment before each use.

R381-100-23. Diapering.

- If the provider accepts children who wear diapers:
 - (1) The provider shall post diapering procedures at each diapering station and ensure that they are followed.
 - (2) The provider shall ensure that each child's diaper is:
 - (a) checked at least once every two hours;
 - (b) promptly changed if wet or soiled; and
 - (c) checked as soon as a sleeping child awakens.
 - (3) The provider shall ensure that caregivers change children's diapers at a diapering station and not on surfaces used for any other purpose.
 - (4) The provider shall ensure that the diapering surface is smooth, waterproof, and in good repair.

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(5) The provider shall ensure that each diapering station is equipped with railings to prevent a child from falling when being diapered.

(6) The provider shall ensure that caregivers do not leave children unattended on the diapering surface.

(7) The provider shall ensure that caregivers 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.

(8) The provider shall ensure that caregivers who change diapers wash their hands after each diaper change.

(9) The provider shall ensure that caregivers 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.

(10) Each day, the provider shall clean and sanitize indoor containers where wet and soiled diapers are placed.

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

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

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

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

R381-100-24. Infant and Toddler Care.

If the provider cares for infants or toddlers:

(1) The provider shall ensure that each awake infant and toddler receives 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 six months old.

(3) The provider shall ensure that infant and toddler areas are not used to pass through or access other indoor and outdoor areas.

(4) The provider shall ensure that infants and toddlers play in the same enclosed outdoor space with older children only when there are eight or fewer children in the group.

(5) The provider shall ensure that caregivers 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, the provider shall make safe toys available and accessible for each infant and toddler to engage in play.

(7) The provider shall ensure that mobile infants and toddlers have freedom of movement in a safe area.

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

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

(10) The provider shall make objects made of styrofoam inaccessible to infants and toddlers.

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

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

(a) labeled with the child's name;

(b) labeled with the date and time of preparation or opening of the container, 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, the provider shall ensure that a caregiver holds the infant during bottle feeding and that bottles are not propped.

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

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

(16) The provider shall ensure that caregivers cut solid foods for infants into pieces no larger than 1/4 inch in diameter, and cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.

(17) The provider shall ensure that infants sleep in equipment designed for sleep such as a crib, bassinet, porta-crib or playpen, and that infants are not 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) The provider shall place infants on their backs for sleeping unless there is documentation from a health care provider requiring a different sleep position.

(19) The provider shall not place soft toys, loose blankets, or other objects in sleep equipment while in use by sleeping infants.

(20) The provider shall document each infant's eating and sleeping patterns each day infants are at the facility, and make sure the record:

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

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

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

(a) the infant or toddler's name;

(b) the time of the diaper change; and

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

(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: [February 25,] 2020

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

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal and Reenact		
Utah Admin. Code Ref (R no.):	R430-8	Filing No. 52850

Agency Information

1. Department:	Health
Agency:	Family Health and Preparedness, Child Care Licensing
Building:	Highland

Street address:	3760 South Highland Drive	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 142003	
City, state, zip:	Salt Lake City, UT 84114-2003	
Contact person(s):		
Name:	Phone:	Email:
Simon Bolivar	801-803-4618	sbolivar@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R430-8. Exemptions From Child Care Licensing
3. Purpose of the new rule or reason for the change:
This repeal and reenact is filed to accommodate all required technical changes suggested by the governor's office and many others needed by the Department of Health procedures. These changes will make this rule be in compliance with the state rulewriting process. Since the required technical changes are many, a repeal and reenact will make this process simpler to be accomplished.
4. Summary of the new rule or change:
Most of the proposed changes are technical. They include re-writing sentences in active voice, deleting or adding punctuation, renumbering as needed, spelling, proper word choice, adding or deleting words to clarify language, negative into positive sentences, and also deleting unnecessary language.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
Family Health and Preparedness, Child Care Licensing (Agency) does not anticipate any additional costs or savings due to the proposed rule changes because the changes are mostly technical and do not add or delete requirements that may affect the budget.
B) Local governments:
These proposed amendments are not expected to have any fiscal impact on local governments' revenues or expenditures because the changes are mostly technical and do not add or delete requirements that may affect local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):

The Agency does not expect any costs or savings associated with the proposed rule amendments because the changes are mostly technical and do not add or delete requirements that may affect them.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

The Agency does not anticipate any additional costs or savings to non-small businesses due to the proposed rule changes because the changes are mostly technical and do not add or delete requirements that may affect them.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The Agency does not anticipate any additional costs or savings to persons other than small businesses, non-small businesses, state, or local entities due to the proposed rule changes because the changes are mostly technical and do not add or delete requirements that may affect them.

F) Compliance costs for affected persons:

The Agency does not anticipate any additional costs due to the proposed rule changes because the changes are mostly technical and do not add or delete requirements that may affect them.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0

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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

H) Department head approval of regulatory impact analysis:

I have reviewed and approved this fiscal analysis. Joseph K. Miner, MD, Executive Director

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

This repeal and reenact is filed to accommodate all required technical changes suggested by the governor's office and many others needed by the Department of Health procedures. These changes will make this rule be in compliance with the state rulewriting process. Since the required technical changes are many, a repeal and reenact will make this process simpler to be accomplished.

Simon Bolivar worked closely with Holly Langton in the governor's office to ensure that the office agrees that the new rule language conforms to the requirements in the Rulewriting Manual.

There is no fiscal impact on businesses because there are not substantive changes to requirements on childcare businesses.

B) Name and title of department head commenting on the fiscal impacts:

Joseph K. Miner, MD, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Title 26, Chapter 39		
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in

the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 08/14/2020

10. This rule change MAY become effective on: 08/21/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	06/14/2020
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R430. Health, Family Health and Preparedness, Child Care Licensing.

R430-8. Exemptions From Child Care Licensing.

~~**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) care for or supervise children;~~

~~(b) volunteer;~~

~~(c) own, operate, direct;~~

~~(d) reside;~~

~~(e) count in the caregiver to child ratio; or~~

~~(f) have unsupervised contact with a child in care.~~

~~(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 grant or 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 grant or 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 unrelated 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. Exempt Application 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 application 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) An exempt provider who cares for a qualifying child as part of a program administered by an educational institution that is regulated by the State Board of Education is not subject to the background check requirements listed below, unless required by the Child Care and Development Block Grant, 42 U.S.C. Secs. 9857-9858r.~~
~~(2) Except as provided in (1) above, the requirements of this subsection apply to all facilities listed in subsection R430-8-4(1).~~
~~(3) The provider shall submit to the Department background checks and fees for all covered individuals as defined in R430-8-2(7).~~
~~(4) Before a new covered individual becomes involved with child care in the program, the provider shall use the CCL provider portal search to:~~
~~(a) verify that the individual has a current CCL background check, and~~
~~(b) associate that individual with their facility.~~
~~(5) Before a new covered individual who does not show in the CCL provider portal search becomes involved with child care in the program, the provider shall:~~
~~(a) have the individual submit an online background check form and fingerprints for individuals age 18 years and older;~~
~~(b) authorize the individual's background check through the CCL provider's portal;~~
~~(c) pay all required fees, and~~
~~(d) receive written notice from CCL that the individual passed the background check.~~
~~(6) A covered individual without a current background check will not show in the CCL provider portal search. The Department may~~

~~not consider a covered individual's background check current when the covered individual has:~~
~~(a) failed to pass a CCL background check;~~
~~(b) moved outside of Utah; or~~
~~(c) not been associated with an active, CCL approved child care facility for the past 180 days.~~
~~(7) The fingerprints shall be prepared by a local law enforcement agency or an agency approved by local law enforcement.~~
~~(8) If fingerprints are submitted through Live Scan (electronically), the agency taking the fingerprints shall follow the Department's guidelines.~~
~~(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, or~~
~~(d) for any of the reasons listed under R430-8-5(9).~~
~~(10) 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.~~
~~(11) 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.~~
~~(12) 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.~~
~~(13) 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.~~
~~(14) 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.~~
~~(15) 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.~~

~~(16) 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.~~

~~(17) 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.~~

~~(18) 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.]~~

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 any of the regulatory requirements of the Utah Department of Health, Child Care Licensing Program.~~

R430-8-2. Definitions.

~~(1) "Background Finding" means information in a background check that may result in a denial from Child Care Licensing.~~

~~(2) "Background Check Denial" means that an individual has failed 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 five 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 old 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) care for or supervise children;~~

~~(b) volunteer;~~

~~(c) own, operate, direct;~~

~~(d) reside;~~

~~(e) count in the caregiver-to-child ratio; or~~

~~(f) have unsupervised contact with a child in care.~~

~~(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 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 an 501(c)(3) religious organization;~~

~~(d) is not directly funded at public expense;~~

~~(e) does not receive:~~

~~(i) child care grant or 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 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 grant or 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 an individual 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 an individual other than the provider or caregiver; or~~

~~(c) a child who is younger than four 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 unrelated 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 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. Exempt Application 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 application 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 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 physically present in the building where the care is provided while the child is in care 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 to the department, each year the program is open for business, 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 available to the public and posted by the department on the Child Care Licensing website.

R430-8-5. Background Check Requirements and Appeals.

(1) An exempt provider who cares for a qualifying child as part of a program administered by an educational institution that is regulated by the State Board of Education is not subject to the background check requirements listed under this section, unless required by the Child Care and Development Block Grant, 42 U.S.C. Secs. 9857-9858r.

(2) Except as provided in Subsection R430-8-5(1), the requirements of this subsection apply to each facility listed in Section R430-8-4.

(3) The provider shall submit to the department background checks and fees for each covered individual as defined in Subsection R430-8-2(7).

(4) Before a new covered individual becomes involved with child care in the program, the provider shall use the CCL provider portal search to:

(a) verify that the individual has a current CCL background check; and

(b) associate that individual with their facility if the covered individual appears in the search.

(5) Before a new covered individual who does not appear in the CCL provider portal search becomes involved with child care in the program, the provider shall:

(a) have the individual submit an online background check form and fingerprints for individuals age 18 years old and older;

(b) authorize the individual's background check through the CCL provider's portal;

(c) pay any required fees; and

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

(6) The department may include a covered individual by name on the CCL provider portal and consider that covered individual's background check to be current if the covered individual has:

(a) passed a CCL background check;
 (b) resided in Utah since the last background check was completed; and
 (c) been associated with an active, CCL approved child care facility within the past 180 days.
 (7) The provider shall ensure that fingerprints are prepared by a local law enforcement agency or an agency approved by local law enforcement.
 (8) If fingerprints are submitted electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows the department's guidelines.
 (9) The department may deny a covered individual from being involved with child care for any of the following background findings:
 (a) LIS supported findings;
 (b) the covered individual's name appears on the Utah or national sex offender registry;
 (c) any felony convictions; or
 (d) for any of the reasons listed under Subsection R430-8-5(10).
 (10) The department may also deny a covered individual from being involved with child care for any of the following convictions regardless of severity:
 (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 an individual;
 (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) The department shall approve a covered individual if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before the CCL background check was conducted.
 (12) If the provider fails to pass a background check, the department may suspend or deny their license until the reason for the denial is resolved.
 (13) 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.
 (14) 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 to the Department of Public Safety.

(15) If a covered individual disagrees with a supported finding on the Department of Human Services Licensing Information System (LIS), the covered individual may appeal the finding to the Department of Human Services.
 (16) The provider and the covered individual shall notify the department within 48 hours of becoming aware of the covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or supported LIS finding. Failure to notify the department within 48 hours may result in disciplinary action, including revocation of the license.
 (17) The Executive Director of the Department of Health may overturn a background check denial if the Executive Director determines that the nature of the background finding or mitigating circumstances do not pose a risk to children.
 (18) 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 each of the terms and conditions of the license, except for the following:
 (a) relative care only as defined in Subsection R430-8-2(17); and
 (b) care provided in the home of the provider on a sporadic basis only.

KEY: child care facilities, exemptions from Child Care Licensing
Date of Enactment or Last Substantive Amendment: [February 25, 2020]
Notice of Continuation: April 17, 2019
Authorizing, and Implemented or Interpreted Law: 26-39

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal and Reenact		
Utah Admin. Code Ref (R no.):	R430-50	Filing No. 52851

Agency Information

1. Department:	Health	
Agency:	Family Health and Preparedness, Child Care Licensing	
Building:	Highland	
Street address:	3760 South Highland Drive	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 142003	
City, state, zip:	Salt Lake City, UT 84114-2003	
Contact person(s):		
Name:	Phone:	Email:
Simon Bolivar	801-803-4618	sbolivar@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R430-50. Residential Certificate Child Care
3. Purpose of the new rule or reason for the change:
This repeal and reenact is filed to accommodate all required technical changes suggested by the governor's office and many others needed by the Department of Health procedures. These changes will make this rule be in compliance with the state rulewriting process. Since the required technical changes are many, a repeal and reenact will make this process simpler to be accomplished.
4. Summary of the new rule or change:
Most of the proposed changes are technical. They include re-writing sentences in active voice, deleting or adding punctuation, renumbering as needed, spelling, proper word choice, adding or deleting words to clarify language, and negative into positive sentences. Family Health and Preparedness, Child Care Licensing (Agency) is also deleting unnecessary language, clarifying training topics as required by federal regulations, clarifying supervision for 16- and 17-year-old caregivers, and clarifying the emergency preparedness and response language to delete the need for the Health and Safety Plan template.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
The Agency does not anticipate any additional costs or savings due to the proposed rule changes because the changes are mostly technical and do not add or delete requirements that may affect the budget.
B) Local governments:
These proposed amendments are not expected to have any fiscal impact on local governments' revenues or expenditures because the changes are mostly technical and do not add or delete requirements that may affect local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
All child care homes in the state operate as small businesses. However, the Agency does not expect any costs or savings associated with the proposed rule amendments because the changes are mostly technical and do not add or delete requirements that may affect them.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The Agency does not anticipate any additional costs or savings to non-small businesses due to the proposed rule changes because the changes are mostly technical and

do not add or delete requirements that may affect them.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The Agency does not anticipate any additional costs or savings to persons other than small businesses, non-small businesses, state, or local entities due to the proposed rule changes because the changes are mostly technical and do not add or delete requirements that may affect them.

F) Compliance costs for affected persons:

The Agency does not anticipate any additional costs due to the proposed rule changes because the changes are mostly technical and do not add or delete requirements that may affect them.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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

H) Department head approval of regulatory impact analysis:

I have reviewed and approved this fiscal analysis. Joseph K. Miner, MD, Executive Director

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

This repeal and reenact is filed to accommodate all required technical changes suggested by the governor's office and many others needed by the Department of Health procedures. These changes will make this rule be in compliance with the state rulewriting process. Since the required technical changes are many, a repeal and reenact will make this process simpler to be accomplished. The changes delete unnecessary language, clarify training topics as required by federal regulations, clarify supervision for 16- and 17-year-old caregivers, and clarify the emergency preparedness and response language to delete the need for the Health and Safety Plan template

Simon Bolivar worked closely with Holly Langton in the governor's office to ensure that the office agrees that the new rule language conforms to the requirements in the Rulewriting Manual.

There is no fiscal impact on businesses because there are not substantive changes to requirements on childcare businesses.

B) Name and title of department head commenting on the fiscal impacts:

Joseph K. Miner, MD, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Title 26, Chapter 39		
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	08/14/2020
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10. This rule change MAY become effective on:	08/21/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	06/15/2020
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R430. Health, Family Health and Preparedness, Child Care Licensing.

R430-50. Residential Certificate Child Care.

[R430-50-1. Legal Authority and Purpose.

(1) This rule is enacted and enforced in accordance with Utah Code, Title 26, Chapter 39.

(2) This rule establishes the foundational standards necessary to protect the health and safety of children in residential child care facilities and defines the general procedures and requirements to obtain and maintain a certificate to provide residential child care.

R430-50-2. Definitions.

(1) "Applicant" means a person or business who has applied for a new or a renewal of a license, certificate, or exemption from Child Care Licensing.

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

(3) "Background Finding" means information in a background check that may result in a denial from Child Care Licensing.

(4) "Background Check Denial" means that an individual has failed the background 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.

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

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

(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.

(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.

(12) "Child Care Hours" means the days and times during which the provider is open for business.

NOTICES OF PROPOSED RULES

- ~~_____ (13) "Child Care Program" means a person or business that offers child care.~~
- ~~_____ (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.~~
- ~~_____ (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.~~
- ~~_____ (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.~~
- ~~_____ (17) "CPSC" means the Consumer Product Safety Commission.~~
- ~~_____ (18) "Department" means the Utah Department of Health.~~
- ~~_____ (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.~~
- ~~_____ (20) "Emotional Abuse" means behavior that could harm a child's emotional development, such as threatening, intimidating, humiliating, demeaning, criticizing, rejecting, using profane language, and/or using inappropriate physical restraint.~~
- ~~_____ (21) "Entrapment Hazard" means an opening greater than 3-1/2 by 6 1/4 inches and less than 9 inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing a child's entrapment and strangulation.~~
- ~~_____ (22) "Facility" means a child care program or the premises approved by the Department to be used for child care.~~
- ~~_____ (23) "Group" means the children who are supervised by one or more caregivers in an individual room or in an area within a room that is defined by furniture or other partition.~~
- ~~_____ (24) "Group Size" means the number of children in a group.~~
- ~~_____ (25) "Guest" means an individual who is not a covered individual and is on the premises with the provider's permission.~~
- ~~_____ (26) "Health Care Provider" means a licensed health professional, such as a physician, dentist, nurse practitioner, or physician's assistant.~~
- ~~_____ (27) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence as described in the McKinney Vento Act, McKinney Vento Homeless Assistance Act (Title IX, Part A of ESSA)~~
- ~~_____ (28) "Inaccessible" means out of reach of children by being:~~
 - ~~_____ (a) locked, such as in a locked room, cupboard, or drawer;~~
 - ~~_____ (b) secured with a child safety device, such as a child safety cupboard lock or doorknob device;~~
 - ~~_____ (c) behind a properly secured child safety gate;~~
 - ~~_____ (d) located in a cupboard or on a shelf that is at least 36 inches above the floor; or~~
 - ~~_____ (e) in a bathroom, at least 36 inches above any surface from where a child could stand or climb.~~
- ~~_____ (29) "Infant" means a child who is younger than 12 months of age.~~
- ~~_____ (30) "Infectious Disease" means an illness that is capable of being spread from one person to another.~~

- ~~_____ (31) "Involved with Child Care" means to do any of the following at or for a child care 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.~~
- ~~_____ (32) "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.~~
- ~~_____ (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)~~
- ~~_____ (34) "Over the Counter Medication" means medication that can be purchased without a written prescription including herbal remedies, vitamins, and mineral supplements.~~
- ~~_____ (35) "Parent" means the parent or legal guardian of a child in care.~~
- ~~_____ (36) "Person" means an individual or a business entity.~~
- ~~_____ (37) "Physical Abuse" means causing nonaccidental physical harm to a child.~~
- ~~_____ (38) "Preschooler" means a child age 2 through 4 years old.~~
- ~~_____ (39) "Provider" means the legally responsible person or business that holds a valid certificate from Child Care Licensing.~~
- ~~_____ (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.~~
- ~~_____ (41) "Residential Child Care" means care that takes place in a child care provider's home.~~
- ~~_____ (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.~~
- ~~_____ (43) "Sanitize" means to use a chemical product to remove soil and bacteria from a surface or object.~~
- ~~_____ (44) "School Age Child" means a child age 5 through 12 years old.~~
- ~~_____ (45) "Sexual Abuse" means abuse as defined in Utah Code, Title 76-5-404(1).~~
- ~~_____ (46) "Sexually Explicit Material" means any depiction of sexually explicit conduct as defined in Utah Code, Title 76-5b-103(10).~~
- ~~_____ (47) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta crib, playpen, or bed.~~
- ~~_____ (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.~~

(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.

(50) "Substitute" means a person who assumes a caregiver's duties when the caregiver is not present.

(51) "Toddler" means a child age 12 through 23 months.

(52) "Unrelated Child" means a child who is not a "related child" as defined in R430-50-2(41).

(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 check.

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

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

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

R430-50-3. Certificate Required.

(1) A person or persons shall be certified as a residential child care provider under this rule if they provide child care:

(a) in the home where they reside;

(b) in the absence of the child's parent;

(c) for 5 to 8 unrelated children;

(d) for 4 or more hours per day;

(e) on a regularly scheduled, ongoing basis; and

(f) for direct or indirect compensation.

(2) The Department may not certify, nor is a certificate is required for:

(a) a person who cares for related children only; or

(b) a person who provides care on a sporadic basis only.

(3) According to Foster Care Services rule R501-12-4(8)(f), a provider may not be certified to provide child care in a facility that is also licensed to offer foster or respite care services, or another licensed or certified human services program.

R430-50-4. Certificate Application, Renewal, Changes, and Variances.

(1) An applicant for a new child care certificate shall submit to the Department:

(a) an online application;

(b) a copy of a current local fire clearance or a statement from the local fire authority that a fire inspection is not required;

(c) a copy of a current local health department kitchen clearance for a facility providing food service or a statement from the local health department that a kitchen inspection is not required;

(d) a copy of a current local business license or a statement from the city that a business license is not required;

(e) a copy of a completed Department health and safety plan form;

(f) CCL background 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) 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;

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

(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.

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~~(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 checks, civil money penalties, and other fees assessed by the Department.~~

~~(15) An applicant or provider may appeal any Department decision within 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 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.~~

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

~~(11) The admission and health assessment form shall include the following information:~~

- ~~(a) child's name;~~
- ~~(b) child's date of birth;~~

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

~~(d) names of people authorized by the parent to pick up the child;~~

~~(e) name, address, and phone number of a person to be contacted in case of an emergency if the provider is unable to contact the parent;~~

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

~~(g) current emergency medical treatment and emergency transportation releases with the parent's signature;~~

~~(h) any known allergies of the child;~~

~~(i) any known food sensitivities of the child;~~

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

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

~~(l) current ongoing medications that the child may be taking; and~~

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

~~(12) The admission and health assessment form shall:~~

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

~~(b) kept on site for review by the Department.~~

~~(13) Before admitting any child younger than 5 years of age into the child care program, including the provider's and employees' own children, the provider shall obtain the following documentation from the child's parent:~~

- ~~(a) current immunizations, as required by Utah law;~~
- ~~(b) a medical schedule to receive required immunizations;~~
- ~~(c) a legal exemption; or~~
- ~~(d) a 90 day exemption for children who are homeless.~~

~~(14) For each child younger than 5 years of age, including the provider's and employees' own children, the provider shall keep their current immunization records on site for review by the Department.~~

~~(15) The provider shall submit the annual immunization report to the Immunization Program in the Utah Department of Health by the date specified by the Department.~~

~~(16) Each child's information shall be kept confidential and shall not be released without written parental permission.~~

R430-50-7. Personnel and Training Requirements.

~~(1) The provider shall ensure that all employees and volunteers 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 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 check;~~

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~~(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 check;~~
~~(b) receive at least 2.5 hours of preservice training before beginning job duties;~~
~~(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 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 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 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 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 check;~~
~~(b) 18 years of age or older shall pass a CCL background 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 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 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) 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 Checks.

~~(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.~~
~~(3) The provider shall ensure that a CCL background check for each individual age 18 years or older includes fingerprints and fingerprints fees.~~
~~(4) The fingerprints shall be prepared by a local law enforcement agency or an agency approved by local law enforcement.~~

~~(5) If fingerprints are submitted through Live Scan (electronically), the agency taking the fingerprints shall follow the Department's guidelines.~~

~~(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.~~

~~(7) 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.~~

~~(8) At least 2 weeks before the end of the renewal 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 and fingerprints if not previously submitted;~~

~~(b) authorize the individual's background check form through the provider portal, and~~

~~(c) pay all required fees.~~

~~(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 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 R430-50-8(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 check was conducted.~~

~~(15) 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 certificate or employment based on that evidence.~~

~~(16) If the provider has a background check denial, the Department may suspend or deny their certificate until the reason for the denial is resolved.~~

~~(17) 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.~~

~~(18) If a covered individual is denied a certificate 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.~~

~~(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 check denial when the Executive Director determines that the nature of the background finding or mitigating circumstances do not pose a risk to children.~~

R430-50-9. Facility.

~~(1) There shall be at least 35 square feet of indoor space for each child in care, including the provider's children.~~

~~(2) Indoor space per child may include floor space used for furniture, fixtures, or equipment if the furniture, fixture, or equipment is used:~~

~~(a) by children;~~

~~(b) for the care of children, or~~

~~(c) to store classroom materials.~~

~~(3) The following areas are not included when measuring indoor space for children's use:~~

~~(a) bathrooms;~~

~~(b) closets;~~

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- ~~_____ (c) hallways, and~~
- ~~_____ (d) entryways.~~
- ~~_____ (4) The maximum allowed capacity for a child care facility may be limited by local ordinances.~~
- ~~_____ (5) The number of children in care at any given time shall not exceed the capacity identified on the certificate.~~
- ~~_____ (6) The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint is tested for lead. If lead-based paint is found, the provider shall contact their local health department within 5 working days and follow required procedures for remediation of the lead hazard.~~
- ~~_____ (7) Each room and indoor area that is used by children shall be ventilated by mechanical ventilation, or by windows that open and have screens.~~
- ~~_____ (8) All rooms and areas that are used for child care shall have adequate light intensity for the safety of the children and the type of activity being conducted.~~
- ~~_____ (9) There shall be a working telephone in the home, in each vehicle while transporting children, and during offsite activities.~~
- ~~_____ (10) There shall be a working toilet and a working handwashing sink accessible to each nondiapered child in care.~~
- ~~_____ (11) A bathroom that provides privacy shall be available for use by school-age children.~~
- ~~_____ (12) If there is a swimming pool on the premises that is not emptied after each use:~~
 - ~~_____ (a) the provider shall meet applicable state and local laws and ordinances related to the operation of a swimming pool and maintain the pool in a safe manner; and~~
 - ~~_____ (b) when not in use, the pool shall be enclosed within at least a 4-foot high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises, or enclosed with a locked, properly working safety cover that meets ASTM Specification F1346-91.~~
- ~~_____ (13) A hot tub on the premises with water in it shall be inaccessible to children by being:~~
 - ~~_____ (a) kept locked with a properly working cover; or~~
 - ~~_____ (b) enclosed within at least a 4-foot high fence or solid barrier that is kept locked and that separates the hot tub from any other areas on the premises.~~
- ~~_____ (14) The provider shall maintain buildings and outdoor areas in good repair and safe condition including:~~
 - ~~_____ (a) ceilings, walls, and floor coverings;~~
 - ~~_____ (b) lighting, bathroom, and other fixtures;~~
 - ~~_____ (c) draperies, blinds, and other window coverings;~~
 - ~~_____ (d) indoor and outdoor play equipment;~~
 - ~~_____ (e) furniture, toys, and materials accessible to the children;~~
 - ~~_____ (f) entrances, exits, steps, and walkways including keeping them free of ice, snow and other hazards.~~
- ~~_____ (15) Accessible raised decks or balconies that are 5 feet or higher, and open basement stairwells that are 5 feet or deeper shall have protective barriers that are at least 3 feet high.~~
- ~~_____ (16) If the house is subdivided, any part of the house is rented out, or any other area of the facility is shared including the outdoor area, the entire facility shall be inspected and covered individuals in the facility shall comply with rules, except when all of the following conditions are met:~~
 - ~~_____ (a) there is a signed rental/lease agreement between the provider and the individual responsible for or living in the other part of the house;~~
 - ~~_____ (b) there is a separate mailing address;~~
 - ~~_____ (c) there is a separate entrance for the child care program;~~

- ~~_____ (d) there are no connecting interior doorways that can be used by unauthorized individuals; and~~
- ~~_____ (e) there is no shared access to the outdoor area used for child care, or a qualified caregiver is present when children are using a shared outdoor area of the facility.~~
- ~~_____ (17) If there is an outdoor area used by children, R430-50-9(18) through R430-50-9(23) apply:~~
- ~~_____ (18) The outdoor area shall be safely accessible to children.~~
- ~~_____ (19) The outdoor area shall have at least 40 square feet of space for each child using the area at one time.~~
- ~~_____ (20) The outdoor area shall be enclosed within a fence, wall, or solid natural barrier that is at least 4 feet high when the facility is on a street or within half a mile of a street that:~~
 - ~~_____ (a) has a speed of 25 miles per hour or higher; or~~
 - ~~_____ (b) has more than 2 lanes of traffic.~~
- ~~_____ (21) The following hazards shall be separated from the children's outdoor area with a fence, wall, or solid natural barrier that is at least 4 feet high:~~
 - ~~_____ (a) barbed wire that is within 30 feet of the children's play area;~~
 - ~~_____ (b) livestock on or within 50 yards of the property line;~~
 - ~~_____ (c) dangerous machinery, such as farm equipment, on or within 50 yards of the property line;~~
 - ~~_____ (d) a drop-off of more than 5 feet on or within 50 yards of the property line; or~~
 - ~~_____ (e) a water hazard, such as a swimming pool, pond, ditch, lake, reservoir, river, stream, creek, or animal watering trough, on or within 100 yards of the property line.~~
- ~~_____ (22) There shall be no gap 5 by 5 inches or greater in or under the fence.~~
- ~~_____ (23) Whenever there are children in the outdoor area, there shall be shade available to protect them from excessive sun and heat.~~

R430-50-10. Ratios and Group Size.

- ~~_____ (1) The provider shall maintain at least 1 caregiver for up to 8 children in care.~~
- ~~_____ (2) There shall be no more than 2 children younger than 2 years old in care including the provider's and employee's own children.~~
- ~~_____ (3) The provider's or an employee's child age 4 years or older shall not be counted in the caregiver-to-child ratio when the parent of the child is working at the facility.~~

R430-50-11. Child Supervision and Security.

- ~~_____ (1) The provider shall ensure that caregivers provide and maintain active supervision of each child at all times:~~
 - ~~_____ (a) a caregiver shall be inside the home when any child in care is inside the home,~~
 - ~~_____ (b) a caregiver shall be in the outdoor area when any child younger than 5 years old is in the outdoor area;~~
 - ~~_____ (c) caregivers shall know the number of children in their care at all times, and~~
 - ~~_____ (d) caregivers' attention shall be focused on the children and not on the caregivers' own personal interests.~~
- ~~_____ (2) A caregiver may allow only school-age children to play outdoors while the caregiver is indoors when:~~
 - ~~_____ (a) the caregiver can hear the children playing outdoors; and~~
 - ~~_____ (b) the children are in an area completely enclosed within a fence, wall, or solid natural barrier that is at least a 4 feet high.~~
- ~~_____ (3) A caregiver shall monitor each sleeping infant by:~~
 - ~~_____ (a) placing each infant to sleep within the sight and hearing of the caregiver; or~~

~~_____ (b) personally observing each sleeping infant at least once every 15 minutes.~~

~~_____ (4) A child may participate in supervised offsite activities without the provider if:~~

~~_____ (a) the provider has prior written permission from the child's parent for the child's participation, and~~

~~_____ (b) the provider has clearly assigned the responsibility for the child's whereabouts and supervision to a responsible adult who accepts that responsibility throughout the period of the offsite activity.~~

~~_____ (5) Whenever a child is in care, the child's parent shall have access to their child and the areas used to care for their child.~~

~~_____ (6) To maintain security and supervision of children, the provider shall ensure that:~~

~~_____ (a) each child is signed in and out;~~

~~_____ (b) only parents or persons with written authorization from the parent may sign out a child;~~

~~_____ (c) photo identification is required if the individual signing the child in or out is unknown to the provider;~~

~~_____ (d) persons signing children in and out use identifiers, such as a signature, initials, or electronic code;~~

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

~~_____ (f) there is written permission from their parents if school-age children sign themselves in and out.~~

~~_____ (7) In an emergency, the caregiver shall accept the parent's verbal authorization to release a child when the caregiver can confirm the identity of:~~

~~_____ (a) the person giving verbal authorization, and~~

~~_____ (b) the person picking up the child.~~

R430-50-12. Child Guidance and Interaction.

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

~~_____ (2) The provider shall inform parents, children, and those who interact with the children of the program's behavioral expectations and how any misbehavior will be handled.~~

~~_____ (3) Individuals who interact with the children shall guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.~~

~~_____ (4) Caregivers shall use gentle, passive restraint with children only when it is needed to stop children from injuring themselves or others, or from destroying property.~~

~~_____ (5) Interactions with the children shall not include:~~

~~_____ (a) any form of corporal punishment or any action that produces physical pain or discomfort such as hitting, spanking, shaking, biting, or pinching;~~

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

~~_____ (c) shouting at children;~~

~~_____ (d) any form of emotional abuse;~~

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

~~_____ (f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.~~

~~_____ (6) Any person who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in Utah Code Section 62A-4a-403 and Section 62A-4a-411.~~

R430-50-13. Child Safety and Injury Prevention.

~~_____ (1) The building, outdoor area, toys, and equipment shall be used in a safe manner and as intended by the manufacturer to prevent injury to children.~~

~~_____ (2) 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.~~

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- ~~(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 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 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) 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 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 16. Food and Nutrition.~~

- ~~_____ (1) The provider shall ensure that each child age 2 years and older is offered a meal or snack at least once every 3 hours.~~
- ~~_____ (2) When food for children's meals and/or snacks is supplied by the provider:~~
 - ~~_____ (a) the meal service shall meet local health department food service regulations;~~
 - ~~_____ (b) the foods that are served shall meet the nutritional requirements of the USDA Child and Adult Care Food Program (CACFP) whether or not the provider participates in the CACFP;~~
 - ~~_____ (c) the provider shall use the CACFP menus, the standard Department approved menus, or menus approved by a registered dietician. Dietitian approval shall be noted and dated on the menus, and shall be current within the past 5 years;~~
 - ~~_____ (d) the current week's menu shall be posted for review by parents and the Department; and~~

- ~~_____ (e) providers who are not participating or in good standing with the CACFP shall keep a six-week record of foods served at each meal and snack.~~
- ~~_____ (3) The person who serves food to children shall:~~
 - ~~_____ (a) be aware of the children in their assigned group who have food allergies or sensitivities, and~~
 - ~~_____ (b) ensure that the children are not served the food or drink they are allergic or sensitive to.~~
 - ~~_____ (4) Children's food shall be served on dishes, napkins, or sanitary highchair trays, except an individual finger food, such as a cracker, that may be placed directly in a child's hand. Food shall not be placed on a bare table.~~
 - ~~_____ (5) Food and drink brought in by parents for their child's use shall be:~~
 - ~~_____ (a) labeled with the child's name or individually identified,~~
 - ~~_____ (b) refrigerated if needed, and~~
 - ~~_____ (c) consumed only by that child.~~

~~R430 50 17. Medications.~~

- ~~_____ (1) All medications shall be inaccessible to children.~~
- ~~_____ (2) All liquid refrigerated medications shall be stored in a separate leakproof container.~~
- ~~_____ (3) All over the counter and prescription medications supplied by parents shall:~~
 - ~~_____ (a) be labeled with the child's full name,~~
 - ~~_____ (b) be kept in the original or pharmacy container,~~
 - ~~_____ (c) have the original label, and~~
 - ~~_____ (d) have child safety caps.~~
 - ~~_____ (4) The provider shall have a written medication permission form completed and signed by the parent before administering any medication supplied by the parent for their child.~~
 - ~~_____ (5) The medication permission form shall include:~~
 - ~~_____ (a) the name of the child,~~
 - ~~_____ (b) the name of the medication,~~
 - ~~_____ (c) written instructions for administration, and~~
 - ~~_____ (d) the parent signature and the date signed.~~
 - ~~_____ (6) The instructions for administering the medication shall include:~~
 - ~~_____ (a) the dosage,~~
 - ~~_____ (b) how the medication will be given,~~
 - ~~_____ (c) the times and dates to administer the medication, and~~
 - ~~_____ (d) the disease or condition being treated.~~
 - ~~_____ (7) If the provider supplies an over the counter medication for children's use, the medication shall not be administered to any child without previous parental consent for each instance it is given. The consent shall be:~~
 - ~~_____ (a) prior written consent; or~~
 - ~~_____ (b) verbal consent if the date and time of the consent is documented, and is signed by the parent upon picking up their child.~~
 - ~~_____ (8) The caregiver administering the medication shall:~~
 - ~~_____ (a) wash their hands,~~
 - ~~_____ (b) check the medication label to confirm the child's name if the parent supplied the medication,~~
 - ~~_____ (c) check the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer, and~~
 - ~~_____ (d) administer the medication.~~
 - ~~_____ (9) Immediately after administering a medication, the caregiver giving the medication shall record the following information:~~
 - ~~_____ (a) the date, time, and dosage of the medication given;~~
 - ~~_____ (b) any errors in administration or adverse reactions; and~~
 - ~~_____ (c) their signature or initials.~~

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

~~_____ (11) If the provider chooses not to administer medication as instructed by the parent, the provider shall notify the parent of their refusal to administer the medication before the time the medication needs to be given.~~

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

R430-50-18. Activities.

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

~~_____ (2) Physical development activities shall include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every 2 hours children spend in the program.~~

~~_____ (3) Toys, materials, and equipment needed to support children's healthy development shall be available to the children.~~

~~_____ (4) Except for occasional special events, 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 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) first aid 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) Cushioning for stationary play equipment shall cover the entire surface of each required use zone.~~

~~_____ (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.~~

~~_____ (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.~~

~~_____ (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.~~

~~_____ (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.~~

~~_____ (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.~~

~~_____ (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.~~

~~_____ (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 R430-50-19(12).~~

~~_____ (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.~~

~~_____ (15) An accessible trampoline shall have shock absorbing pads that completely cover its springs, hooks, and frame.~~

~~_____ (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.~~

~~_____ (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;~~
- ~~_____ (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 first aid supplies, including at least antiseptic, band aids, and tweezers.~~
- ~~_____ (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 reptiles and amphibians.~~
- ~~_____ (8) Dogs, cats, and ferrets that are housed at the facility shall have current rabies vaccinations.~~
- ~~_____ (9) The provider shall keep current animal vaccination records on site for review by the Department.~~

R430-50-22. Rest and Sleep.

- ~~_____ (1) The provider shall offer children in care a daily opportunity for rest or sleep in an environment with subdued lighting, a low noise level, and freedom from distractions.~~
- ~~_____ (2) Each crib used by children shall:~~
 - ~~_____ (a) have a tight fitting mattress;~~
 - ~~_____ (b) have slats spaced no more than 2 3/8 inches apart;~~
 - ~~_____ (c) have at least 20 inches from the top of the mattress to the top of the crib rail, or at least 12 inches from the top of the mattress to the top of the crib rail if the child using the crib cannot sit up without help;~~
 - ~~_____ (d) not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child; and~~
 - ~~_____ (e) meet CPSC standards.~~
- ~~_____ (3) Sleeping equipment may not block exits.~~
- ~~_____ (4) Sleeping equipment and bedding items that are clearly assigned to and used by an individual child shall be cleaned and sanitized as needed and at least weekly.~~
- ~~_____ (5) Sleeping equipment and bedding items that are not clearly assigned to and used by an individual child shall be cleaned and sanitized before each use.~~

R430-50-23. Diapering.

- ~~_____ If the provider accepts children who wear diapers:~~
- ~~_____ (1) Caregivers shall ensure that each child's diaper is:~~
 - ~~_____ (a) checked at least once every 2 hours;~~
 - ~~_____ (b) promptly changed when wet or soiled, and~~
 - ~~_____ (c) checked as soon as a sleeping child awakens.~~
- ~~_____ (2) The diapering area shall not be located in a food preparation or eating area.~~
- ~~_____ (3) Children shall not be diapered directly on the floor, or on any surface used for another purpose.~~
- ~~_____ (4) The diapering surface shall be smooth, waterproof, and in good repair.~~
- ~~_____ (5) Caregivers shall clean and sanitize the diapering surface after each diaper change, or use a disposable, waterproof diapering surface that is thrown away after each diaper change.~~
- ~~_____ (6) Caregivers shall wash their hands after each diaper change.~~
- ~~_____ (7) Caregivers shall place wet and soiled disposable diapers:~~
 - ~~_____ (a) in a container that has a disposable plastic lining and a tight fitting lid;~~
 - ~~_____ (b) directly in an outdoor garbage container that has a tight fitting lid, or~~
 - ~~_____ (c) in a container that is inaccessible to children.~~

- ~~_____ (8) Indoor containers where wet and soiled diapers are placed shall be cleaned and sanitized each day.~~
- ~~_____ (9) If cloth diapers are used:~~
 - ~~_____ (a) they shall not be rinsed at the facility; and~~
 - ~~_____ (b) they shall be placed directly into a leakproof container that is inaccessible to any child and labeled with the child's name, or placed in a leakproof diapering service container.~~

~~R430-50-24. Infant and Toddler Care.~~

- ~~_____ If the provider cares for infants or toddlers:~~
- ~~_____ (1) Each awake infant and toddler shall receive positive physical and verbal interaction with a caregiver at least once every 20 minutes.~~
- ~~_____ (2) To stimulate their healthy development, the provider shall ensure that infants receive daily interactions with adults; including on the ground interaction and closely supervised time spent in the prone position for infants younger than 6 months of age.~~
- ~~_____ (3) Caregivers shall respond promptly to infants and toddlers who are in emotional distress due to conditions such as hunger, fatigue, a wet or soiled diaper, fear, teething, or illness.~~
- ~~_____ (4) For their healthy development, safe toys shall be available for infants and toddlers. There shall be enough toys accessible to each infant and toddler in the group to engage in play.~~
- ~~_____ (5) Mobile infants and toddlers shall have freedom of movement in a safe area.~~
- ~~_____ (6) An awake infant or toddler shall not be confined for more than 30 minutes in any piece of equipment, such as a swing, high chair, crib, playpen, or other similar piece of equipment.~~
- ~~_____ (7) Only one infant or toddler shall occupy any one piece of equipment at any time, unless the equipment has individual seats for more than one child.~~
- ~~_____ (8) Infants and toddlers shall not have access to objects made of styrofoam.~~
- ~~_____ (9) Each infant and toddler shall be allowed to eat and sleep on their own schedule.~~
- ~~_____ (10) Baby food, formula, or breast milk that is brought from home for an individual child's use shall be:~~
 - ~~_____ (a) labeled with the child's name;~~
 - ~~_____ (b) kept refrigerated if needed; and~~
 - ~~_____ (c) discarded within 24 hours of preparation or opening, except for unprepared powdered formula or dry food.~~
- ~~_____ (11) If an infant is unable to sit upright and hold their own bottle, a caregiver shall hold the infant during bottle feeding. Bottles shall not be propped.~~
- ~~_____ (12) The caregiver shall swirl and test warm bottles for temperature before feeding to children.~~
- ~~_____ (13) Formula and milk, including breast milk, shall be discarded after feeding or within 2 hours of starting a feeding.~~
- ~~_____ (14) Caregivers shall cut solid foods for infants into pieces no larger than 1/4 inch in diameter, and shall cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.~~
- ~~_____ (15) Infants shall sleep in equipment designed for sleep such as a crib, bassinet, porta-crib or play pen. An infant shall not be placed to sleep on a mat, cot, pillow, bouncer, swing, car seat, or other similar piece of equipment unless the provider has written permission from the infant's parent.~~
- ~~_____ (16) Infants shall be placed on their backs for sleeping unless there is documentation from a health care provider requiring a different sleep position.~~
- ~~_____ (17) Soft toys, loose blankets, or other objects shall not be placed in cribs while in use by sleeping infants.]~~

R430-50-1. Legal Authority and Purpose.

- _____ (1) This rule is enacted and enforced in accordance with Utah Code, Title 26, Chapter 39.
- _____ (2) This rule establishes the foundational standards necessary to protect the health and safety of children in residential child care facilities and defines the general procedures and requirements to get and maintain a residential certificate to provide child care.

R430-50-2. Definitions.

- _____ (1) "Applicant" means a person or business who has applied for a new or a renewal of a residential certificate from Child Care Licensing.
- _____ (2) "Background Finding" means information in a background check that may result in a denial from Child Care Licensing.
- _____ (3) "Background Check Denial" means that an individual has failed the background check and is prohibited from being involved with a child care program.
- _____ (4) "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.
- _____ (5) "Body Fluid" means blood, urine, feces, vomit, mucus, or saliva.
- _____ (6) "Business Days and Hours" means the days of the week and times the facility is open for business.
- _____ (7) "Capacity" means the maximum number of children for whom care can be provided at any given time.
- _____ (8) " Caregiver-to-Child Ratio" means the number of caregivers responsible for a specific number of children.
- _____ (9) "CCL" means the Child Care Licensing Program in the Department of Health that is delegated with the responsibility to enforce the Utah Child Care Licensing Act.
- _____ (10) "Child Care" means continuous care and supervision of five or more qualifying children that is:
 - _____ (a) in place of care ordinarily provided by a parent in the parent's home;
 - _____ (b) for less than 24 hours a day; and
 - _____ (c) for direct or indirect compensation.
- _____ (11) "Child Care Program" means a person or business that offers child care.
- _____ (12) "Choking Hazard" means an object or a removable part on an object with a diameter of less than 1-1/4 inches and a length of less than 2-1/4 inches that could be caught in a child's throat blocking their airway and making it difficult or impossible to breathe.
- _____ (13) "Conditional Status" means that the provider is at risk of losing their child care residential certificate because compliance with licensing rules has not been maintained.
- _____ (14) "Covered Individual" means any of the following individuals involved with a child care program:
 - _____ (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 old or older who resides in the facility; and
 - _____ (f) anyone who has unsupervised contact with a child in care.
- _____ (15) "Crib" means an infant's bed with sides to protect them from falling including a bassinet, porta-crib, or play pen.
- _____ (16) "Cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of injuries from falls.

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

(18) "Designated Play Surface" means any accessible elevated surface for standing, walking, crawling, sitting or climbing; or an accessible flat surface at least two by two inches in size and having an angle less than 30 degrees from horizontal.

(19) "Emotional Abuse" means behavior that could harm a child's emotional development, such as threatening, intimidating, humiliating, demeaning, criticizing, rejecting, using profane language, or using inappropriate physical restraint.

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

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

(22) "Group" means the children who are assigned to and supervised by one or more caregivers.

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

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

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

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

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

(a) locked, such as in a locked room, cupboard, or drawer;

(b) secured with a child safety device, such as a child safety cupboard lock or doorknob device;

(c) behind a properly secured child safety gate;

(d) located at least 36 inches above the floor; or

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

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

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

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

(a) care for or supervise children;

(b) volunteer;

(c) own, operate, direct;

(d) reside;

(e) count in the caregiver-to-child ratio; or

(f) have unsupervised contact with a child in care.

(31) "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.

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

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

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

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

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

(37) "Provider" means the legally responsible person or business that holds a valid residential certificate from Child Care Licensing.

(38) "Qualifying Child" means:

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

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

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

(39) "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.

(40) "Residential Child Care" means care that takes place in a child care provider's home.

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

(42) "School-Age Child" means a child age five through 12 years old.

(43) "Sexual Abuse" means to take indecent liberties with a child with the intention to arouse or gratify the sexual desire of an individual or to cause pain or discomfort.

(44) "Sexually Explicit Material" means any depiction of actual or simulated sexually explicit conduct.

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

(46) "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.

(47) "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 two 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 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.

(48) "Toddler" means a child age 12 through 23 months old.

(49) "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 check.

(50) "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.

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

(52) "Working Days" means the days of the week the department is open for business.

R430-50-3. Residential Certificate Required.

(1) An individual shall be certified as a residential child care provider if they provide care:

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- (a) in the home where they reside;
 - (b) in the absence of the child's parent;
 - (c) for five to eight unrelated children;
 - (d) for four or more hours a day;
 - (e) for each individual child for less than 24 hours a day;
 - (f) on a regularly scheduled, ongoing basis; and
 - (g) for direct or indirect compensation.
- (2) A person who is not required to be certified may voluntarily become certified, except for care that is for related children only or on a sporadic basis.

R430-50-4. Residential Certificate Application, Renewal, Changes, and Variances.

- (1) Each applicant for a new residential certificate shall:
 - (a) submit an online application;
 - (b) submit a copy of a current local fire clearance or a statement from the local fire authority that a fire inspection is not required;
 - (c) submit 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) submit a copy of a current local business license or a statement from the city that a business license is not required;
 - (e) complete CCL background checks for covered individuals as required in Section R430-50-8;
 - (f) complete CCL new provider training no more than six months before becoming certified; and
 - (g) pay any required fees, which are nonrefundable.
- (2) Each applicant shall pass a department's inspection of the facility before a new residential certificate or a renewal is issued.
- (3) If the local fire authority states that an applicant for a new residential certificate or a renewal does not require a fire inspection, the department shall verify the applicant's compliance with the following:
 - (a) address numbers and letters are readable from the street;
 - (b) exit doors operate properly and are well maintained;
 - (c) there are no obstructions in exits, aisles, corridors, and stairways;
 - (d) there is at least one unobstructed fire extinguisher that is currently charged, serviced, and mounted not more than five feet above the floor;
 - (e) there are working smoke detectors that are properly installed on each level of the building; and
 - (f) boiler, mechanical, and electrical panel rooms are not used for storage.
- (4) If an applicant for a new residential certificate or a renewal serves food and the local health department states that a kitchen inspection is not required, the department shall verify the applicant's compliance with the following:
 - (a) the refrigerator is clean, in good repair, and working at or below 41 degrees Fahrenheit;
 - (b) there is a working thermometer in the refrigerator;
 - (c) there is a working stem thermometer available to check cooking and hot hold temperatures;
 - (d) reusable food holders, utensils, and food preparation surfaces are washed, rinsed, and sanitized before each use;
 - (e) chemicals are stored away from food and food service items;
 - (f) food is properly stored, kept to the proper temperature, and in good condition; and
 - (g) there is a working handwashing sink in the kitchen.
- (5) Each applicant shall have six months from the time any portion of the application is submitted to finish the residential certificate

- process. If unsuccessful, the applicant shall reapply. Any resubmission must include the required documentation, payment of certification fees, and a new inspection of the facility in order to be certified.
- (6) The department may deny an application for a residential certificate if, within the five years preceding the application date, the applicant held a license or a residential 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 a rule violation 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 residential certificate expires at midnight on the last day of the month shown on the residential certificate, unless the residential certificate was previously revoked by the department, or voluntarily closed by the provider.
- (8) Within 30 to 90 days before a current residential certificate expires, each provider shall submit for renewal:
 - (a) an online renewal request;
 - (b) applicable renewal fees;
 - (c) any previous unpaid fees; and
 - (d) a copy of a current fire inspection report.
- (9) The department may grant a provider who fails to renew their residential certificate by the expiration date an additional 30 days to complete the renewal process if the provider pays a late fee.
- (10) The department may deny renewal of a residential certificate for a provider who is no longer caring for children.
- (11) Each provider shall submit a complete application for a new residential certificate at least 30 days before a change of the child care facility's location.
- (12) A provider shall submit a complete online changes request to amend an existing residential certificate at least 30 days before any of the following changes:
 - (a) an increase or decrease of residential certificate capacity, including any change to the amount of usable indoor space where child care is provided;
 - (b) a change in the name of the program;
 - (c) a change in the regulation type of the program;
 - (d) a change in the name of the provider; or
 - (e) a transfer of business ownership.
- (13) The department may amend a residential 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 residential certificate remains the same as the previous residential certificate.
- (14) Only the department may assign, transfer, or amend a residential certificate.
- (15) If an applicant or provider cannot comply with a rule but can meet the intent of the rule in another way, the applicant or provider may apply for a variance to that rule by submitting a request to the department.
- (16) Each provider shall comply with the existing rules until a variance is approved by the department.
- (17) If a variance is approved, the provider shall keep a copy of the written approval on-site for review by parents and the department.
- (18) The department may grant variances for up to 12 months.
- (19) 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 residential 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 residential certificate if the child care provider:

(a) fails to meet the conditions of a residential 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 residential certificate or any other document issued by the department;

(e) fails to allow authorized representatives of the department access to the facility to ensure compliance with this rule;

(f) fails to submit or make available to the department any written documentation required to verify compliance with this rule;

(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 an individual from having a residential certificate.

(5) Within ten 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 the children's 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 a child care provider to suspend services and 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 four 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 or residential certificate 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 the 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 a day as provided in Section 26-39-601.

(12) The department may assess a civil money penalty and also take action to deny, place on conditional status, revoke, immediately close, or refuse to renew a license or residential certificate.

(13) The department may deny an application or revoke a license or a residential certificate for failure to pay any required fees, including fees for applications, late fees, returned checks, license changes, additional inspections, conditional monitoring inspections, background checks, civil money penalties, and other fees assessed by the department.

(14) An applicant or provider may appeal any department decision within 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 old;

(b) pass a CCL background check;

(c) complete the new provider training offered by the department; and

(d) complete at least 10 hours of child care training each year, based on the facility's license date.

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

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

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

(5) The provider shall post their unaltered child care residential certificate on the facility premises in a place readily visible and accessible to the public during business hours.

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

(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:

(a) have liability insurance; or

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

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

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

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

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

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

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

(h) any known allergies of the child;

(i) any known food sensitivities of the child;

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

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

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

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

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

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

(b) kept on-site for review by the department.

(12) Before admitting any child younger than five years old into the child care program, including the provider's and employees' own children, the provider shall get the following documentation from the child's parent:

(a) current immunizations;

(b) a medical schedule to receive required immunizations;

(c) a legal exemption; or

(d) a 90-day exemption for children who are homeless.

(13) For each child younger than five years old, including the provider's and employees' own children, the provider shall keep their current immunization records on-site for review by the department.

(14) The provider shall submit the annual immunization report to the Immunization Program in the Utah Department of Health by the date specified by the department.

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

R430-50-7. Personnel and Training Requirements.

(1) The provider shall be present at the home at least 50% of the time each week the program is open for business.

(2) If the provider is not present, the provider shall ensure that there is at least one covered individual who is 18 years old or older present at the facility when there is a child in care.

(3) The provider shall ensure that any covered individual caring for the children is supervised, qualified, and trained to:

(a) meet the needs of the children as required by this rule; and

(b) be in compliance with licensing rules.

(4) The provider shall ensure that caregivers:

(a) are at least 16 years old;

(b) pass a CCL background check;

(c) receive at least 2-1/2 hours of preservice training before caring for children;

(d) know and follow any applicable laws and rules;

(e) complete at least 10 hours of child care training each year based on the facility's residential certificate date, or at least 45 minutes of child care training each month they work if hired partway through the facility's licensing year; and

(f) do not have unsupervised contact with any child in care, including during offsite activities and transportation, if the caregivers are younger than 18 years old.

(5) The provider shall ensure that any other employees such as drivers, cooks, and clerks:

(a) pass a CCL background check;

(b) receive at least 2-1/2 hours of preservice training before beginning job duties;

(c) know and follow any applicable laws and rules, and

(d) do not have unsupervised contact with any child in care, including during offsite activities and transportation, if the employee is younger than 18 years old.

(6) The provider shall ensure that volunteers:

(a) pass a CCL background check; and

(b) do not have unsupervised contact with any child in care, including during offsite activities and transportation, if the volunteer is younger than 18 years old.

(7) The provider shall ensure that guests do not have unsupervised contact with any child in care, including during offsite activities and transportation.

(8) The provider shall submit a background check as required in Section R430-50-8 for each guest who is 12 years old and older and stays in the home for more than two weeks.

(9) The provider shall ensure that parents of children in care do not have unsupervised contact with any child in care, except with their own children.

(10) The provider shall ensure that household members who are:

(a) 12 to 17 years old pass a CCL background check and do not have unsupervised contact with any child in care, including during offsite activities and transportation; and

(b) 18 years old or older pass a CCL background check that includes fingerprints.

(11) The provider shall ensure that individuals who provide Individualized Educational Plan (IEP) or Individualized Family Service plan (IFSP) services such as physical, occupational, or speech therapists:

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

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

(12) The provider shall ensure that individuals from law enforcement, Child Protective Services, the department, and any similar entities provide proper identification before having access to the facility or to a child at the facility.

(13) The provider shall ensure that preservice training includes at least the following topics:

(a) job description and duties;

(b) current department rule Sections R430-50-7 through R430-50-24;

(c) disaster preparedness, response, and recovery;

(d) pediatric first aid and cardio pulmonary resuscitation (CPR);

(e) children with special needs;

(f) safe handling and disposal of hazardous materials;

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

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

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

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

(k) recognizing the signs of homelessness and available assistance;

(l) a review of the information in each child's health assessment in the caregiver's assigned group, including allergies, food sensitivities, and other special needs; and

(m) an introduction and orientation to the children in care.

(14) The provider shall ensure that annual child care training includes at least the following topics:

(a) current department rule Sections R430-50-7 through R430-50-24;

(b) disaster preparedness, response, and recovery;

(c) pediatric first aid and CPR;

(d) children with special needs;

(e) safe handling and disposal of hazardous materials;

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

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

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

(i) prevention of sudden infant death syndrome (SIDS) and use of safe sleeping practices; and

(j) recognizing the signs of homelessness and available assistance.

(15) The provider shall ensure that at least half of the required annual training is interactive.

(16) When there are children at the facility, the provider shall ensure that there is at least one covered individual present who can demonstrate English literacy skills needed to care for children and respond to emergencies.

(17) The provider shall ensure that at least one covered individual with a current Red Cross, American Heart Association, or equivalent pediatric first aid and CPR certification is present when children are in care:

(a) at the facility;

(b) in each vehicle transporting children; and

(c) at each offsite activity.

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

(19) The provider shall ensure that current pediatric first aid and CPR certification records for each for each covered individual required by this rule to have them are kept on-site for review by the department.

R430-50-8. Background Checks.

(1) Before a new covered individual becomes involved with child care in the program, the provider shall use the CCL provider portal search to:

(a) verify that the individual has a current CCL background check; and

(b) associate that individual with their facility if the covered individual appears in the search.

(2) Before a new covered individual who does not appear in the CCL provider portal search becomes involved with child care in the program, the provider shall:

(a) have the individual submit an online background check form and fingerprints for individuals age 18 years old and older;

(b) authorize the individual's background check through the CCL provider's portal;

(c) pay any required fees; and

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

(3) The department may include a covered individual by name on the CCL provider portal and consider that covered individual's background check to be current if the covered individual has:

(a) passed a CCL background check;

(b) resided in Utah since the last background check was completed; and

(c) been associated with an active, CCL approved child care facility within the past 180 days.

(4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall:

(a) ensure that an online background check form is submitted;

(b) authorize the child's background check through the CCL provider's portal; and

(c) pay any required fees.

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

(6) If fingerprints are submitted electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows the department's guidelines.

(7) The department may deny a covered individual from being involved with child care for any of the following background findings:

(a) LIS supported findings;

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

(c) any felony convictions; or

(d) for any of the reasons listed under Subsection R430-50-8(8).

(8) The department may also deny a covered individual from being involved with child care for any of the following convictions regardless of severity:

(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 an individual;

(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.

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

(10) If the provider fails to pass a background check, the department may suspend or deny their residential certificate until the reason for the denial is resolved.

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(11) 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.

(12) If a covered individual is denied a residential certificate 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 to the Department of Public Safety.

(13) If a covered individual disagrees with a supported finding on the Department of Human Services Licensing Information System (LIS), the covered individual may appeal the finding to the Department of Human Services.

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

(15) The Executive Director of the Department of Health may overturn a background check denial if the Executive Director determines that the nature of the background finding or mitigating circumstances do not pose a risk to children.

R430-50-9. Facility.

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

(2) The department may include as indoor space per child 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 materials for children.

(3) The department may not include the following areas when measuring indoor space for children's use:

- (a) bathrooms;
- (b) closets;
- (c) hallways;
- (d) lobbies; and
- (e) entryways.

(4) The department may limit the maximum allowed capacity for a child care facility based on local ordinances.

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

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

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

(8) The provider shall ensure that rooms and areas have adequate light intensity for the safety of the children and the type of activity being conducted.

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

(10) The provider shall ensure that there is a working telephone at the facility, in each vehicle while transporting children, and during offsite activities.

(11) The provider shall ensure that there is at least one working toilet and at least one working handwashing sink accessible to each nondiapered child in care.

(12) The provider shall ensure that there is at least one bathroom that provides privacy available for use by school-age children.

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

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

(b) maintain the pool in a safe manner; and

(c) when not in use, cover the pool with a commercially-made safety enclosure that is installed according to the manufacturer's instructions, or enclose the pool within at least a four-foot-high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises.

(14) If there is a hot tub with water in it on the premises, the provider shall make the hot tub is inaccessible to children by:

(a) keeping the hot tub locked with a properly working cover;

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

(15) 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.

(16) The provider shall ensure that accessible raised decks or balconies that are five feet or higher, and open stairwells that are five feet or deeper have protective barriers that are at least three feet high.

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

(a) there is a signed rental or lease agreement for the rented area;

(b) there is a separate mailing address for the rented area;

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

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

(e) there is no shared access to the outdoor area, unless a qualified caregiver is with the children each time children in care are using the outdoor area.

(18) If there is an outdoor area used by children in care, the provider shall comply with Subsections R430-50-9(19) through R430-50-9(24).

(19) The provider shall ensure that the outdoor area is safely accessible to children.

(20) The provider shall ensure that the outdoor area has at least 40 square feet of space for each child using the area at one time.

(21) The provider shall ensure that the outdoor area is enclosed within a fence, wall, or solid natural barrier that is at least four feet high if the facility is on a street or within a half mile of a street that:

- (a) has a speed of 25 miles per hour or higher; or
- (b) has more than two lanes of traffic.
- (22) The provider shall ensure that the following hazards are separated from the children's outdoor area with a fence, wall, or solid natural barrier that is at least four feet high:
 - (a) barbed wire that is within 30 feet of the children's play area;
 - (b) livestock on or within 50 yards of the property line;
 - (c) dangerous machinery, such as farm equipment, on or within 50 yards of the property line;
 - (d) a drop-off of more than five feet on or within 50 yards of the property line; and
 - (e) a water hazard, such as a swimming pool, pond, ditch, lake, reservoir, river, stream, creek, or animal watering trough, on or within 100 yards of the property line.
- (23) The provider shall ensure that there is no gap five by five inches or greater in or under the fence or barrier.
- (24) The provider shall ensure that there is shade available to protect the children from excessive sun and heat when children are in the outdoor area.

R430-50-10. Ratios and Group Size.

- (1) The provider shall maintain at least one caregiver for up to eight children in care.
- (2) The provider shall ensure that there are no more than two children younger than two years old in care including the provider's and employee's own children.
- (3) The provider shall include the provider's and employees' children age four years old or older in care:
 - (a) in the group size when the parent of the child is working at the facility; and
 - (b) in the group size and the caregiver-to-child ratio when the parent of the child is not working at the facility.

R430-50-11. Child Supervision and Security.

- (1) The provider shall ensure that caregivers provide and maintain active supervision of each child, including:
 - (a) a caregiver is inside the home when a child in care is inside the home;
 - (b) a caregiver is in the outdoor area when a child younger than five years old is in the outdoor area;
 - (c) caregivers know the number of children in their care at any time; and
 - (d) caregivers' attention is focused on the children and not on caregivers' personal interests.
- (2) The provider may allow school-age children to be outdoors while caregivers are indoors if:
 - (a) a caregiver can hear the children when children are outdoors; and
 - (b) the children are in a area completely enclosed within a fence, wall, or solid natural barrier that is at least four feet high.
- (3) The provider shall ensure that a caregiver monitors each sleeping infant by:
 - (a) placing each infant to sleep within the sight and hearing of a caregiver; or
 - (b) personally observing each sleeping infant at least once every 15 minutes.
- (4) The provider may allow a child to participate in supervised offsite activities without a caregiver if:
 - (a) the provider has prior written permission from the child's parent for the child's participation; and

- (b) the provider has clearly assigned the responsibility for the child's whereabouts and supervision to a responsible adult who accepts that responsibility throughout the period of the offsite activity.
- (5) The provider shall ensure that parents have access to their child and the areas used to care for their child when their child is in care.
- (6) To maintain security and supervision of children, the provider shall ensure that:
 - (a) each child is signed in and out;
 - (b) only parents or individuals with written authorization from the parent may sign out a child;
 - (c) photo identification is required if the individual signing the child out is unknown to the provider;
 - (d) individuals signing children in and out use identifiers, such as a signature, initials, or electronic code;
 - (e) the sign-in and sign-out records include the date and time each child arrives and leaves; and
 - (f) there is written permission from the child's parent if school-age children sign themselves in or out.
- (7) In an emergency, the provider shall accept the parent's verbal authorization to release a child if the provider can confirm the identity of:
 - (a) the individual giving verbal authorization; and
 - (b) the individual picking up the child.

R430-50-12. Child Guidance and Interaction.

- (1) The provider shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.
- (2) The provider shall inform parents, children, and those who interact with the children of the facility's behavioral expectations and how any misbehavior will be handled.
- (3) The provider shall ensure that individuals who interact with the children guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.
- (4) The provider shall ensure that caregivers use gentle, passive restraint with children only when it is needed to protect children from injuring themselves or others, or to stop them from destroying property.
- (5) The provider shall ensure that interactions with the children do not include:
 - (a) any form of corporal punishment or any action that produces physical pain or discomfort such as hitting, spanking, shaking, biting, or pinching;
 - (b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint;
 - (c) shouting at children;
 - (d) any form of emotional abuse;
 - (e) forcing or withholding food, rest, or toileting; or
 - (f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.
- (6) Any individual who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in state law.

R430-50-13. Child Safety and Injury Prevention.

- (1) The provider shall ensure that the building, outdoor area, toys, and equipment are used in a safe manner and as intended by the manufacturer to prevent injury to children.
- (2) The provider shall ensure that poisonous and harmful plants are inaccessible to children.

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(3) The provider shall ensure that sharp objects, edges, corners, or points that could cut or puncture skin are inaccessible to children.

(4) The provider shall ensure that choking hazards are inaccessible to children younger than three years old.

(5) The provider shall ensure that strangulation hazards such as ropes, cords, chains, and wires attached to a structure and long enough to encircle a child's neck are inaccessible to children.

(6) The provider shall ensure that tripping hazards such as unsecured flooring, rugs with curled edges, or cords in walkways are inaccessible to children.

(7) The provider shall ensure that empty plastic bags large enough for a child's head to fit inside, latex gloves, and balloons are inaccessible to children younger than five years old.

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

(9) The provider shall ensure that toxic or hazardous chemicals such as cleaners, insecticides, lawn products, and flammable, corrosive, and reactive materials are:

(a) inaccessible to children;

(b) used according to manufacturer instructions;

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

(d) disposed of properly.

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

(a) matches or cigarette lighters;

(b) open flames;

(c) hot wax or other hot substances; and

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

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

(a) live electrical wires; and

(b) for children younger than five years old, 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, the provider shall ensure that firearms such as guns, muzzleloaders, rifles, shotguns, hand guns, pistols, and automatic guns are:

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

(b) stored unloaded and separate from ammunition.

(13) The provider shall ensure that weapons such as paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace are inaccessible to children.

(14) The provider shall ensure that alcohol, illegal substances, and sexually explicit material are inaccessible, and not used on the premises, during offsite activities, or in center vehicles any time a child is in care.

(15) The provider shall ensure that an outdoor source of drinking water, such as individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain is available to each child when the outside temperature is 75 degrees or higher.

(16) The provider shall ensure that areas accessible to children are free of heavy or unstable objects that children could pull down on themselves, such as furniture, unsecured televisions, and standing ladders.

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

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

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

(20) The provider shall ensure that tobacco, e-cigarettes, e-juice, e-liquids, and similar products are inaccessible and, in compliance with the Utah Indoor Clean Air Act, 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, Response, and Recovery.

(1) The provider shall have an emergency preparedness, response, and recovery plan that:

(a) includes procedures for evacuation, relocation, shelter in place, lockdown, communication with and reunification of families, and continuity of operations;

(b) includes procedures for accommodations for infants and toddlers, children with disabilities, and children with chronic medical conditions; and

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

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

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

(4) The provider shall conduct fire evacuation drills every six months and make sure drills include a complete exit of each child, staff, and volunteers from the building.

(5) The provider shall conduct drills for disasters other than fires at least once every 12 months.

(6) The provider shall vary the days and times on which fire and other disaster drills are held.

(7) The provider shall:

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

(b) ensure the report has the signatures of the caregivers involved, the provider, and the individual picking up the child; and

(c) if school-age children sign themselves out of the facility, send a copy of the report to the parent on the day following the occurrence.

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

(9) If a life-threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb happens, the provider shall:

(a) call emergency personnel immediately;

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

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

(10) 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 five business days of the incident.

(11) If the provider must leave the children due to an emergency and a background checked covered individual who is at least 18 years old or older is not available to stay with the children, the provider may leave the children in the care of an emergency substitute who:

(a) is at least 18 years old;

(b) substitutes the caregiver for the minimum period of time possible and for less than one business day; and

(c) signs a written background statement before being left alone with the children.

(12) Before leaving for the emergency, the provider shall obtain a signed, written background statement from the emergency substitute stating that the emergency substitute:

(a) has not been convicted of a felony;

(b) has not been convicted of a crime against a person;

(c) is not listed on the state or national sex offender registry; and

(d) is not being investigated for abuse or neglect by any federal, state, or local government agency.

(13) Within five working days after the occurrence, the provider shall submit emergency substitute's written background statements to the department for review.

R430-50-15. Health and Infection Control.

(1) The provider shall keep the building, furnishings, equipment, and outdoor area clean and sanitary including:

(a) walls and flooring clean and free of spills, dirt, and grime;

(b) areas and equipment used for the storage, preparation, and service of food clean and sanitary;

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

(d) the building and grounds free of a build-up of litter, trash, and garbage;

(e) frequently touched surfaces, including doorknobs and light switches, cleaned and sanitized; and

(f) the facility free of animal feces.

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

(3) The provider shall clean and sanitize any toys and materials used by children:

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

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

(c) after being contaminated by a body fluid.

(4) The provider shall ensure that fabric toys and items such as stuffed animals, cloth dolls, pillow covers, and dress-up clothes are machine washable and if used, washed at least each week or as needed.

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

(6) The provider shall clean and sanitize water play tables or tubs daily if used by the children.

(7) The provider shall clean and sanitize bathroom surfaces including toilets, sinks, faucets, toilet and sink handles, and counters each day the facility is open for business.

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

(9) The provider shall keep toilet paper in a dispenser that is accessible to children.

(10) The provider shall ensure that staff and volunteers wash their hands thoroughly with soap and running water:

(a) upon arrival;

(b) before handling or preparing food or bottles;

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

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

(e) after contact with a body fluid;

(f) when coming in from outdoors; and

(g) after cleaning up or taking out garbage.

(11) The provider shall ensure that caregivers teach children how to wash their hands thoroughly and oversee handwashing when possible.

(12) The provider shall ensure that children wash their hands thoroughly with soap and running water:

(a) upon arrival;

(b) before and after eating meals and snacks;

(c) after using the toilet;

(d) after contact with a body fluid;

(e) before using a water play table or tub; and

(f) when coming in from outdoors.

(13) The provider shall ensure that only single-use towels, an electric hand dryer, or individually labeled cloth towels are used to dry hands.

(14) The provider shall ensure that if cloth towels are used, cloth towels are:

(a) not shared; and

(b) washed daily.

(15) The provider shall store personal hygiene items, such as toothbrushes, combs, and hair accessories separate, so they do not touch each other, and ensure they are not shared or they are sanitized between each use.

(16) The provider shall ensure that pacifiers, bottles, and nondisposable drinking cups are:

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

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

(17) The provider shall ensure that a child's clothing is promptly changed if the child has a toileting accident.

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

(a) washed and dried; or

(b) placed in a leakproof container that is labeled with the child's name and returned to the parent.

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

(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) If a child becomes ill while in care, the provider shall:

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(a) as soon as the illness is observed or suspected, contact the child's parent or, if the parent cannot be reached, an individual listed as the emergency contact; and

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

(21) The provider shall notify the parents of each child in care if any child, employee, or person in the home has an infectious disease or parasite, on the day the illness is discovered.

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

(23) To prevent contamination of food, the spread of foodborne illnesses, and other diseases, the provider shall ensure that individuals with an infectious disease or showing symptoms such as diarrhea, fever, coughing, or vomiting do not prepare or serve foods.

R430-50-16. Food and Nutrition.

(1) The provider shall offer a meal or snack to each child age two years old and older at least once every three hours.

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

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

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

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

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

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

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

(a) is aware of the children in their assigned group who have food allergies or sensitivities; and

(b) ensures that the children are not served the food or drink they are allergic or sensitive to.

(4) The provider shall not place children's food on a bare table, and shall serve children's food on dishes, napkins, or sanitary highchair trays, except an individual finger food such as a cracker, which may be placed directly in a child's hand.

(5) If parents bring food and drink for their child's use, the provider shall ensure that the food is:

(a) labeled with the child's name;

(b) refrigerated if needed; and

(c) consumed only by that child.

R430-50-17. Medications.

(1) The provider shall make medications inaccessible to children in care.

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

(3) If parents supply any over-the-counter or prescription medications, the provider shall ensure those medications are:

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

(b) kept in the original or pharmacy container;

(c) have the original label; and

(d) have child-safety caps.

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

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

(a) the name of the child;

(b) the name of the medication;

(c) written instructions for administration; and

(d) the parent signature and the date signed.

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

(a) the dosage;

(b) how the medication will be given;

(c) the times and dates to administer the medication; and

(d) the disease or condition being treated.

(7) If the provider supplies an over-the-counter medication for children's use, the provider shall ensure that the medication is not administered to any child without previous parental consent for each instance it is given. The provider shall ensure that the consent is:

(a) written; or

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

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

(a) washes their hands;

(b) check the medication label to confirm the child's name if the parent supplied the medication;

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

(d) administers the medication.

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

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

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

(c) their signature or initials.

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

(11) The provider shall notify the parent before the time a medication needs to be given to a child if the provider chooses not to administer medication as instructed by the parent.

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

R430-50-18. Activities.

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

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

(3) The provider shall ensure that toys, materials, and equipment needed to support children's healthy development are available to the children.

(4) Except for occasional special events, the provider shall ensure that the children's primary screen time activity on media such as television, cell phones, tablets, and computers is:

(a) not allowed for children zero to 17 months old;
(b) limited for children 18 months to four years old to one hour a day, or five hours a week with a maximum screen time of two hours per activity; and

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

(5) If swimming activities are offered or if wading pools are used, the provider shall ensure that:

(a) the parent gives permission before their child in care uses the pool;

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

(c) diapered children wear swim diapers when they are in the pool;

(d) wading pools are emptied and sanitized after use by each group of children;

(e) if the pool is over four feet deep, there is 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 do not count toward the caregiver-to-child ratio.

(6) If offsite activities are offered, the provider shall ensure that:

(a) the parent gives written consent before each activity;
(b) the required caregiver-to-child ratio and supervision are maintained during the entire activity;

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

(d) children's names are not used on nametags, t-shirts, or in other visible ways; and

(e) there is a way for caregivers and children to wash their hands with soap and water, or with wet wipes and hand sanitizer if there is no source of running water.

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

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

(c) the name and phone number of an individual to notify if an emergency happens and 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.

R430-50-19. Play Equipment.

(1) The provider shall ensure that children using play equipment use it safely and in the manner intended by the manufacturer.

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

(3) Except for trampolines, the provider shall ensure that stationary play equipment with a designated play surface that is 18 inches high or higher:

(a) has a surrounding three-foot use zone, free of hard objects or surfaces, that extends from the outermost edge of the equipment;

(b) has cushioning that covers the entire required use zone; and

(c) is stable or securely anchored.

(4) The department may consider a trampoline on the premises to be inaccessible to children in care if the trampoline:

(a) is enclosed behind a locked fence or safety net that is at least three feet high;

(b) has no jumping mat; or

(c) is placed upside down.

(5) The provider shall ensure that each accessible trampoline without a safety net enclosure has at least a six-foot use zone that is measured from the outermost edge of the trampoline frame, and that is free from any structure or object including play equipment, trees, and fences.

(6) The provider shall ensure that each accessible trampoline with a properly installed, used as specified by the manufacturer, and in good repair safety net enclosure has at least a three-foot use zone that is measured from the outermost edge of the trampoline frame, and that is free from any structure or object including play equipment, trees, and fences.

(7) The provider shall ensure that each accessible trampoline with or without a safety net enclosure:

(a) is placed over grass;

(b) a six-inch deep cushioning; or

(c) other commercial cushioning.

(8) The provider shall ensure that cushioning for each accessible trampoline covers the entire required use zone.

(9) The provider shall ensure that each accessible trampoline has:

(a) no ladders or other objects within the use zone a child could use to climb on the trampoline; and

(b) shock absorbing pads that completely cover the trampoline springs, hooks, and frame.

(10) The provider shall receive written permission from a child's parent or legal guardian before that child uses the trampoline.

(11) The provider shall ensure that if a child uses an accessible trampoline:

(a) a caregiver is at the trampoline supervising;

(b) only one person at a time uses the trampoline;

(c) no child in care is allowed to do somersaults or flips on the trampoline;

(d) no one is allowed to be under the trampoline while the trampoline is in use; and

(e) only school-age children in care are allowed to use a trampoline.

(12) The provider shall ensure that there are no entrapment hazards on or within the use zone of any piece of stationary play equipment.

(13) The provider shall ensure that there are no strangulation hazards on or within the use zone of any piece of stationary play equipment.

(14) The provider shall ensure that there are no crush, shearing, or sharp edge hazards on or within the use zone of any piece of stationary play equipment.

(15) The provider shall ensure that there are no tripping hazards such as concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.

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) The provider shall ensure that each vehicle used for transporting children:
 - (a) is enclosed with a roof or top;
 - (b) is equipped with safety restraints;
 - (c) has a current vehicle registration;
 - (d) is maintained in a safe and clean condition; and
 - (e) contains first aid supplies, including at least antiseptic, bandages, and tweezers.
- (3) The provider shall ensure that the safety restraints in each vehicle that transports children are:
 - (a) appropriate for the age and size of each child who is transported, as required by Utah law;
 - (b) properly installed; and
 - (c) in safe condition and working order.
- (4) The provider shall ensure that the driver of each vehicle who is transporting children:
 - (a) is at least 18 years old;
 - (b) has and carries with them a current, valid driver's license for the type of vehicle being driven;
 - (c) has with them the written emergency contact information for each child being transported;
 - (d) ensures that each child being transported is in an individual safety restraint that is used according to Utah law;
 - (e) ensures that the inside vehicle temperature is between 60-85 degrees Fahrenheit;
 - (f) never leaves a child in the vehicle unattended by an adult;
 - (g) ensures that children stay seated while the vehicle is moving;
 - (h) never leaves the keys in the ignition when not in the driver's seat; and
 - (i) ensures that the vehicle is locked during transport.
- (5) If 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 the children;
 - (c) the caregiver-to-child ratio is maintained; and
 - (d) a caregiver with the children has written emergency contact information and releases for the children being transported.

R430-50-21. Animals.

- (1) The provider shall inform parents of the kinds of animals allowed at the facility.
- (2) The provider shall ensure that there is 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 individual.
- (3) The provider shall ensure that animals at the facility are clean and free of obvious disease or health problems that could adversely affect children.
- (4) The provider shall ensure that there is no animal or animal equipment in food preparation or eating areas.
- (5) The provider shall ensure that children younger than five years old do 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 provider shall ensure that the children wash their hands immediately after cleaning the animal or equipment.
- (7) The provider shall ensure that children and staff wash their hands immediately after playing with or touching reptiles and amphibians.
- (8) The provider shall ensure that dogs, cats, and ferrets that are housed at the facility have current rabies vaccinations.
- (9) The provider shall keep current animal vaccination records on-site for review by the department.

R430-50-22. Rest and Sleep.

- (1) The provider shall offer children in care a daily opportunity for rest or sleep in an environment with subdued lighting, a low noise level, and freedom from distractions.
- (2) The provider shall ensure that each crib:
 - (a) has a tight-fitting mattress;
 - (b) has slats spaced no more than 2-3/8 inches apart;
 - (c) has at least 20 inches from the top of the mattress to the top of the crib rail, or at least 12 inches from the top of the mattress to the top of the crib rail if the child using the crib cannot sit up without assistance;
 - (d) does not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child; and
 - (e) has documentation from the manufacturer or retailer stating that the crib was built after June 28, 2011, or that the crib is certified if the crib was manufactured before that date.
- (3) The provider shall ensure that sleeping equipment does not block exits.
- (4) The provider shall ensure that sleeping equipment and bedding items are:
 - (a) clearly assigned to one child; and
 - (b) laundered as needed, but at least once a week, and before use by another child.
- (5) The provider shall clean and sanitize sleeping equipment that is not clearly assigned to and used by an individual child before each use.

R430-50-23. Diapering.

- If the provider accepts children who wear diapers:
- (1) The provider shall ensure that each child's diaper is:
 - (a) checked at least once every two hours;
 - (b) promptly changed if wet or soiled; and
 - (c) checked as soon as a sleeping child awakens.
- (2) The provider shall ensure that caregivers do not change children's diapers directly on the floor, in a food preparation or eating area, or on any surface used for another purpose.
- (3) The provider shall ensure that the diapering surface is smooth, waterproof, and in good repair.
- (4) The provider shall ensure that caregivers 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.
- (5) The provider shall ensure that caregivers who change diapers wash their hands after each diaper change.
- (6) The provider shall ensure that caregivers 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.

(7) Each day, the provider shall clean and sanitize indoor containers where wet and soiled diapers are placed.

(8) If cloth diapers are used, the provider shall:

(a) not rinse cloth diapers at the facility; and

(b) place cloth diapers directly into a leakproof container that is inaccessible to any child and labeled with the child's name, or place the cloth diapers in a leakproof diapering service container.

R430-50-24. Infant and Toddler Care.

If the provider cares for infants or toddlers:

(1) The provider shall ensure that each awake infant and toddler receives 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 six months old.

(3) The provider shall ensure that caregivers 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, the provider shall make safe toys available and accessible for each infant and toddler to engage in play.

(5) The provider shall ensure that mobile infants and toddlers have freedom of movement in a safe area.

(6) The provider shall not confine an awake infant or toddler in any piece of equipment, such as a swing, high chair, crib, playpen, or other similar piece of equipment for more than 30 minutes.

(7) The provider shall ensure that only one infant or toddler occupies any one piece of equipment at a time, unless the equipment has individual seats for more than one child.

(8) The provider shall make objects made of styrofoam inaccessible to infants and toddlers.

(9) The provider shall allow each infant and toddler to eat and sleep on their own schedule.

(10) The provider shall ensure that baby food, formula, or breast milk that is brought from home for an individual child's use is:

(a) labeled with the child's name;

(b) labeled with the date and time of preparation or opening of the container, 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, the provider shall ensure that a caregiver holds the infant during bottle feeding and that bottles are not propped.

(12) The provider shall ensure that the caregiver swirls and tests warm bottles for temperature before feeding to children.

(13) The provider shall discard formula and milk, including breast milk, after feeding or within two hours of starting a feeding.

(14) The provider shall ensure that caregivers cut solid foods for infants into pieces no larger than 1/4 inch in diameter, and cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.

(15) The provider shall ensure that infants sleep in equipment designed for sleep such as a crib, bassinet, porta-crib or playpen, and that infants are not 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) The provider shall place infants on their backs for sleeping unless there is documentation from a health care provider requiring a different sleep position.

(17) The provider shall not place soft toys, loose blankets, or other objects in sleep equipment while in use by sleeping infants.

KEY: child care facilities, residential certification

Date of Enactment or Last Substantive Amendment: [~~August 10, 2018~~2020

Notice of Continuation: May 9, 2018

Authorizing, and Implemented or Interpreted Law: 26-39

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Repeal and Reenact		
Utah Admin. Code Ref (R no.):	R430-90	Filing No. 52849

Agency Information

1. Department:	Health	
Agency:	Family Health and Preparedness, Child Care Licensing	
Building:	Highland	
Street address:	3760 South Highland Drive	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 142003	
City, state, zip:	Salt Lake City, UT 84114-2003	
Contact person(s):		
Name:	Phone:	Email:
Simon Bolivar	801-803-4618	sbolivar@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
R430-90. Licensed Family Child Care
3. Purpose of the new rule or reason for the change:
This repeal and reenact is filed to accommodate all required technical changes suggested by the governor's office and many others needed by the Department of Health procedures. These changes will make this rule be in compliance with the state rulewriting process. Since the required technical changes are many, a repeal and reenact will make this process simpler to be accomplished.
4. Summary of the new rule or change:
Most of the proposed changes are technical. They include re-writing sentences in active voice, deleting or adding punctuation, renumbering as needed, spelling, proper word choice, adding or deleting words to clarify language, and negative into positive sentences. Family Health and

Preparedness, Child Care Licensing (Agency) is also deleting unnecessary language, clarifying training topics as required by federal regulations, clarifying supervision for 16- and 17-year-old caregivers, and clarifying the emergency preparedness and response language to delete the need for the Health and Safety Plan template.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

The Agency does not anticipate any additional costs or savings due to the proposed rule changes because the changes are mostly technical and do not add or delete requirements that may affect the budget.

B) Local governments:

These proposed amendments are not expected to have any fiscal impact on local governments' revenues or expenditures because the changes are mostly technical and do not add or delete requirements that may affect local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):

All child care homes in the state operate as small businesses. However, the Agency does not expect any costs or savings associated with the proposed rule amendments because the changes are mostly technical and do not add or delete requirements that may affect them.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

The Agency does not anticipate any additional costs or savings to non-small businesses due to the proposed rule changes because the changes are mostly technical and do not add or delete requirements that may affect them.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an *agency*):

The Agency does not anticipate any additional costs or savings to persons other than small businesses, non-small businesses, state, or local entities due to the proposed rule changes because the changes are mostly technical and do not add or delete requirements that may affect them.

F) Compliance costs for affected persons:

The Agency does not anticipate any additional costs due to the proposed rule changes because the changes are mostly technical and do not add or delete requirements that may affect them.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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

H) Department head approval of regulatory impact analysis:

I have reviewed and approve this fiscal analysis. Joseph K. Miner, MD, Executive Director

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

This repeal and reenact is filed to accommodate all required technical changes suggested by the governor's office and many others needed by the Department of Health procedures. These changes will make this rule be in compliance with the state rulewriting process. Since the required technical changes are many, a repeal and reenact will make this process simpler to be accomplished. The changes delete unnecessary language, clarify training topics as required by federal regulations, clarify supervision for 16- and 17-year-old caregivers, and clarify the emergency preparedness and response language to delete the need for the Health and Safety Plan template

Simon Bolivar worked closely with Holly Langton in the governor's office to ensure that the office agrees that the new rule language conforms to the requirements in the Rulewriting Manual.

There is no fiscal impact on businesses because there are not substantive changes to requirements on childcare businesses

B) Name and title of department head commenting on the fiscal impacts:

Joseph K. Miner, MD, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Title 26, Chapter 39		
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	08/14/2020
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10. This rule change MAY become effective on:	08/21/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Joseph K. Miner, MD, Executive Director	Date:	06/14/2020
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R430. Health, Family Health and Preparedness, Child Care Licensing.

R430-90. Licensed Family Child Care.

[R430-90-1. Legal Authority and Purpose.

(1) This rule is enacted and enforced in accordance with Utah Code, Title 26, Chapter 39.

(2) This rule establishes the foundational standards necessary to protect the health and safety of children in residential child care facilities and defines the general procedures and requirements to obtain and maintain a license to provide child care.

R430-90-2. Definitions.

(1) "Applicant" means a person or business who has applied for a new or a renewal of a license, certificate, or exemption from Child Care Licensing.

(2) "ASTM" means American Society for Testing and Materials.

(3) "Background Finding" means information in a background check that may result in a denial from Child Care Licensing.

(4) "Background Check Denial" means that an individual has failed the background 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.

(8) "Capacity" means the maximum number of children for whom care can be provided at any given time.

(9) "Caregiver to Child Ratio" means the number of caregivers responsible for a specific number of children.

(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.

(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.

(12) "Child Care Hours" means the days and times during which the provider is open for business.

(13) "Child Care Program" means a person or business that offers child care.

(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.

(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.

(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.

(17) "CPSC" means the Consumer Product Safety Commission.

(18) "Crib" means an infant's bed with sides to protect them from falling, including a basinet, porta crib, and play pen.

(19) "Department" means the Utah Department of Health.

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(20) "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.

(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.

(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.

(23) "Facility" means a child care program or the premises approved by the Department to be used for child care.

(24) "Group" means the children who are assigned to and supervised by one or more caregivers.

(25) "Group Size" means the number of children in a group.

(26) "Guest" means an individual who is not a covered individual and is on the premises with the provider's permission.

(27) "Health Care Provider" means a licensed health professional, such as a physician, dentist, nurse practitioner, or physician's assistant.

(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)

(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.

(30) "Infant" means a child who is younger than 12 months of age.

(31) "Infectious Disease" means an illness that is capable of being spread from one person to another.

(32) "Involved with Child Care" means to do any of the following at or for a child care facility:

- (a) care for or supervise children;
- (b) volunteer;
- (c) own, operate, direct;
- (d) reside;
- (e) count in the caregiver to child ratio; or
- (f) have unsupervised contact with a child in care.

(33) "License" means a license issued by the Department to provide child care services.

(34) "Licensee" means the legally responsible person or business that holds a valid license from Child Care Licensing.

(35) "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.

(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).

(37) "Over the Counter Medication" means medication that can be purchased without a written prescription including herbal remedies, vitamins, and mineral supplements.

(38) "Parent" means the parent or legal guardian of a child in care.

(39) "Person" means an individual or a business entity.

(40) "Physical Abuse" means causing nonaccidental physical harm to a child.

(41) "Preschooler" means a child age 2 through 4 years old.

(42) "Provider" means the legally responsible person or business that holds a valid license from Child Care Licensing.

(43) "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.

(44) "Residential Child Care" means care that takes place in a child care provider's home.

(45) "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.

(46) "Sanitize" means to use a chemical product to remove soil and bacteria from a surface or object.

(47) "School Age Child" means a child age 5 through 12 years old.

(48) "Sexual Abuse" means abuse as defined in Utah Code, Title 76-5-404(1).

(49) "Sexually Explicit Material" means any depiction of sexually explicit conduct as defined in Utah Code, Title 76-5b-103(10).

(50) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.

(51) "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.

(52) "Strangulation Hazard" means something on which a child's clothes or drawstrings could become caught, or something in which a child could become entangled 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.

(53) "Substitute" means a person who assumes a caregiver's duties when the caregiver is not present.

(54) "Toddler" means a child age 12 through 23 months.

(55) "Unrelated Child" means a child who is not a "related child" as defined in R430-90-2(45).

(56) "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 check.

(57) "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.

~~(58) "Volunteer" means an individual who receives no form of direct or indirect compensation for their service.~~

~~(59) "Working Days" means the days of the week the Department is open for business.~~

R430-90-3. License Required.

~~(1) A person or persons shall be licensed under this rule if they provide child care:~~

- ~~(a) in the home where they reside;~~
- ~~(b) in the absence of the child's parent;~~
- ~~(c) for 5 or more unrelated children;~~
- ~~(d) for 4 or more hours per day;~~
- ~~(e) for each individual child for less than 24 hours per day;~~
- ~~(f) on a regularly scheduled, ongoing basis; and~~
- ~~(g) for direct or indirect compensation.~~

~~(2) The Department may not license, nor is a license required for:~~

- ~~(a) a person who cares for related children only; or~~
- ~~(b) a person who provides care on a sporadic basis only.~~

~~(3) A provider may not be licensed to provide child care in a facility that is also licensed to offer foster or respite care services, or another licensed or certified human services program, unless the part of the building requesting a CCL license is physically separated from the other building services.~~

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 checks for all covered individuals as required in R430-90-8;~~
- ~~(g) new provider training completion no more than six months before the date of the application;~~
- ~~(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 verify compliance with the following:~~

- ~~(a) address numbers and/or letters shall be readable from the street;~~
- ~~(b) exit doors shall operate properly and shall be well maintained;~~
- ~~(c) obstructions in exits, aisles, corridors, and stairways shall be removed;~~
- ~~(d) there shall be at least one unobstructed fire extinguisher on each level of the building, currently charged and serviced, and mounted not more than 5 feet above the floor;~~
- ~~(e) there shall be working smoke detectors that are properly installed on each level of the building; and~~

~~(f) 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 verify 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 checks, civil money penalties, and other fees assessed by the Department.

_____ (15) An applicant or provider may appeal any Department decision within 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 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.

_____ (10) The provider shall ensure that each parent completes an admission and health assessment form for their child before the child is admitted into the child care program.

_____ (11) The admission and health assessment form shall include the following information:

_____ (a) child's name;

_____ (b) child's date of birth;

_____ (c) parent's name, address, and phone number, including a daytime phone number;

_____ (d) names of people authorized by the parent to pick up the child;

_____ (e) name, address, and phone number of a person to be contacted in case of an emergency if the provider is unable to contact the parent;

_____ (f) if available, the name, address, and phone number of an out of area emergency contact person for the child;

_____ (g) current emergency medical treatment and emergency transportation releases with the parent's signature;

_____ (h) any known allergies of the child;

_____ (i) any known food sensitivities of the child;

_____ (j) any chronic medical conditions that the child may have;

_____ (k) instructions for special or nonroutine daily health care of the child;

_____ (l) current ongoing medications that the child may be taking; and

_____ (m) any other special health instructions for the caregiver.

_____ (12) The admission and health assessment form shall:

_____ (a) be reviewed, updated, and signed or initialed by the parent at least annually; and

_____ (b) kept on site for review by the Department.

_____ (13) Before admitting any child younger than 5 years of age into the child care program, including the provider's and employees' own

children, the provider shall obtain the following documentation from the child's parent:

_____ (a) current immunizations, as required by Utah law;

_____ (b) a medical schedule to receive required immunizations;

_____ (c) a legal exemption; or

_____ (d) a 90-day exemption for children who are homeless.

_____ (14) For each child younger than 5 years of age, including the provider's and employees' own children, the provider shall keep their current immunization records on site for review by the Department.

_____ (15) The provider shall submit the annual immunization report to the Immunization Program in the Utah Department of Health by the date specified by the Department.

_____ (16) Each child's information shall be kept confidential and shall not be released without written parental permission.

R430-90-7. Personnel and Training Requirements.

_____ (1) The provider shall ensure that all employees and volunteers 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 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 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 check;

_____ (b) receive at least 2.5 hours of preservice training before beginning job duties;

_____ (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 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 check when they remain in the home for not more than 2 weeks.

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~~_____ (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 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 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 check;~~

~~_____ (b) 18 years of age or older shall pass a CCL background 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 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 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 current first aid and CPR certification, if required in rule; and~~

~~_____ (c) a six week record of the times worked each day.~~

R430-90-8. Background Checks.

~~_____ (1) Before a new covered individual becomes involved with child care in the program, the provider shall use the CCL provider portal search to:~~

~~_____ (a) verify that the individual has a current CCL background check, and~~

~~_____ (b) associate that individual with their facility.~~

~~_____ (2) Before a new covered individual who does not show in the CCL provider portal search becomes involved with child care in the program, the provider shall:~~

~~_____ (a) have the individual submit an online background check form and fingerprints for individuals age 18 years and older;~~

~~_____ (b) authorize the individual's background check through the CCL provider's portal,~~

~~_____ (c) pay all required fees, and~~

~~_____ (d) receive written notice from CCL that the individual passed the background check.~~

~~_____ (3) A covered individual without a current background check will not show in the CCL provider portal search. The Department may not consider a covered individual's background check current when the covered individual has:~~

~~_____ (a) failed to pass a CCL background check;~~

~~_____ (b) moved outside of Utah; or~~

~~_____ (c) not been associated with an active, CCL approved child care facility for the past 180 days.~~

~~_____ (4) Within 10 working days from when a child who resides in the facility turns 12 years old, the provider shall:~~

~~_____ (a) ensure that an online background check form is submitted;~~

~~_____ (b) authorize the child's background check through the CCL provider's portal, and~~

~~_____ (c) pay all required 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) 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; or~~

~~_____ (d) for any of the reasons listed under R381-100-8(8).~~

~~_____ (8) 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.~~

~~_____ (9) 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 check was conducted.~~

~~_____ (10) 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.~~

~~_____ (11) If the provider has a background check denial, the Department may suspend or deny their license until the reason for the denial is resolved.~~

~~_____ (12) 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.~~

~~_____ (13) 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.~~

~~_____ (14) 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.~~

~~_____ (15) 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.~~

~~_____ (16) 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.~~

R430-90-9. Facility.

~~_____ (1) There shall be at least 35 square feet of indoor space for each child in care, including the provider's and employees' children.~~

~~_____ (2) Indoor space per child may include floor space used for furniture, fixtures, or equipment if the furniture, fixture, or equipment is used:~~

~~_____ (a) by children;~~

~~_____ (b) for the care of children; or~~

~~_____ (c) to store classroom materials.~~

~~_____ (3) The following areas are not included when measuring indoor space for children's use:~~

~~_____ (a) bathrooms;~~

~~_____ (b) closets;~~

~~_____ (c) hallways, and~~

~~_____ (d) entryways.~~

~~_____ (4) The maximum allowed capacity for a child care facility may be limited by local ordinances.~~

~~_____ (5) The number of children in care at any given time shall not exceed the capacity identified on the license.~~

~~_____ (6) The provider shall ensure that any building or play structure on the premises constructed before 1978 that has peeling, flaking, chalking, or failing paint is tested for lead. If lead-based paint is found, the provider shall contact their local health department within 5 working days and follow required procedures for remediation of the lead hazard.~~

~~_____ (7) Each room and indoor area that is used by children shall be ventilated by mechanical ventilation, or by windows that open and have screens.~~

~~_____ (8) All rooms and areas that are used for child care shall have adequate light intensity for the safety of the children and the type of activity being conducted.~~

~~_____ (9) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.~~

~~_____ (10) There shall be a working telephone in the home, in each vehicle while transporting children, and during offsite activities.~~

~~_____ (11) There shall be a working toilet and a working handwashing sink accessible to each nondiapered child in care.~~

~~_____ (12) A bathroom that provides privacy shall be available for use by school-age children.~~

~~_____ (13) There shall be an outdoor area that is safely accessible to children.~~

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(14) The outdoor area shall have at least 40 square feet of space for each child using the area at one time.

(15) The outdoor area shall be enclosed within a fence, wall, or solid natural barrier that is at least 4 feet high when the facility is on a street or within half a mile of a street that:

- (a) has a speed of 25 miles per hour or higher, or
- (b) has more than 2 lanes of traffic.

(16) The following hazards shall be separated from the children's outdoor area with a fence, wall, or solid natural barrier that is at least 4 feet high:

- (a) barbed wire that is within 30 feet of the children's play area;
- (b) livestock on or within 50 yards of the property line;
- (c) dangerous machinery, such as farm equipment, on or within 50 yards of the property line;
- (d) a drop-off of more than 5 feet on or within 50 yards of the property line; or
- (e) a water hazard, such as a swimming pool, pond, ditch, lake, reservoir, river, stream, creek, or animal watering trough, on or within 100 yards of the property line.

(17) There shall be no gap 5 by 5 inches or greater in or under the fence.

(18) Whenever there are children in the outdoor area, there shall be shade available to protect them from excessive sun and heat.

(19) If there is a swimming pool on the premises that is not emptied after each use:

- (a) the provider shall meet applicable state and local laws and ordinances related to the operation of a swimming pool and maintain the pool in a safe manner; and
- (b) when not in use, the pool shall be enclosed within at least a 4-foot high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises, or enclosed with a locked, properly working safety cover that meets ASTM Specification F1346-91.

(20) A hot tub on the premises with water in it shall be inaccessible to children by being:

- (a) kept locked with a properly working cover; or
- (b) enclosed within at least a 4-foot high fence or solid barrier that is kept locked and that separates the hot tub from any other areas on the premises.

(21) The provider shall maintain buildings and outdoor areas in good repair and safe condition including:

- (a) ceilings, walls, and floor coverings;
- (b) lighting, bathroom, and other fixtures;
- (c) draperies, blinds, and other window coverings;
- (d) indoor and outdoor play equipment;
- (e) furniture, toys, and materials accessible to the children;
- (f) entrances, exits, steps, and walkways including keeping them free of ice, snow and other hazards.

(22) Accessible raised decks or balconies that are 5 feet or higher, and open basement stairwells that are 5 feet or deeper shall have protective barriers that are at least 3 feet high.

(23) If the house is subdivided, any part of the house is rented out, or any other area of the facility is shared including the outdoor area, the entire facility shall be inspected and covered individuals in the facility shall comply with rules, except when all of the following conditions are met:

- (a) there is a signed rental/lease agreement between the provider and the individual responsible for or living in the other part of the house;
- (b) there is a separate mailing address;
- (c) there is a separate entrance for the child care program;

(d) there are no connecting interior doorways that can be used by unauthorized individuals; and

(e) there is no shared access to the outdoor area used for child care, or a qualified caregiver is present when children are using a shared outdoor area of the facility.

R430 90 10. Ratios and Group Size.

(1) The provider shall maintain at least 1 caregiver for up to 8 children in care, and at least 2 caregivers for 9 to 16 children in care.

(2) The provider's or an employee's child age 4 years or older is not counted in the caregiver to child ratio when the parent of the child is working at the facility, but the child shall be counted in the group size.

(3) When caring for children younger than 2 years old:

- (a) there shall be no more than 2 children younger than 2 years old with 1 caregiver;
- (b) there shall be no more than 4 children younger than 2 years old with 2 caregivers; and
- (c) if there are 6 or fewer children in care, there may be up to 3 children younger than 2 years old with 1 caregiver.

(4) The provider shall not exceed the group sizes found in Table 1 and Table 2.

TABLE 1

MAXIMUM GROUP SIZE WITH 1 PROVIDER

# of Provider's Own Children Ages 4-12 Years Present During Child Care Hours	Maximum Allowed # of Children in Care, Including the Provider's and Caregivers' Own Children Younger than 4 years old	Total # of Children Through age 12 Years Present in the Home During Child Care Hours
0-4 Children	8 children	12 Children
5 Children	7 children	12 Children
6 Children	6 children	12 Children
7 Children	5 children	12 Children
8 Children	4 children	12 Children
9 Children	3 children	12 Children
10 Children	2 children	12 Children
11 Children	1 child	12 Children

TABLE 2

MAXIMUM GROUP SIZE WITH 2 CAREGIVERS

# of Provider's Own Children Ages 4-12 Years Present During Child Care Hours	Maximum Allowed # of Children in Care, Including the Provider's and Caregivers' Own Children Younger than 4 years old	Total # of Children Through age 12 Years Present in the Home During Child Care Hours
0-8 Children	16 children	24 Children
9 Children	15 children	24 Children
10 Children	14 children	24 Children
11 Children	13 children	24 Children
12 Children	12 children	24 Children
13 Children	11 children	24 Children
14 Children	10 children	24 Children
15 Children	9 children	24 Children
16 Children	8 children	24 Children
17 Children	7 children	24 Children
18 Children	6 children	24 Children
19 Children	5 children	24 Children
20 Children	4 children	24 Children
21 Children	3 children	24 Children
22 Children	2 children	24 Children
23 Children	1 child	24 Children

- ~~_____ (5) Caregivers who are 16 or 17 years old may be included in the caregiver to child ratio only when there is a caregiver who is at least 18 years on the premises.~~
- ~~_____ (6) Volunteers may be included in the caregiver to child ratio if they:

 - ~~_____ (a) are at least 16 years old;~~
 - ~~_____ (b) receive at least 2.5 hours of preservice training before counting in the caregiver to child ratio, and~~
 - ~~_____ (c) complete at least 1.5 hours of child care training for each month they volunteer 40 hours or more.~~~~
- ~~_____ (7) Guests shall not count in the caregiver to child ratio.~~

R430 90 11. Child Supervision and Security.

- ~~_____ (1) The provider shall ensure that caregivers provide and maintain active supervision of each child at all times:

 - ~~_____ (a) a caregiver shall be inside the home when any child in care is inside the home;~~
 - ~~_____ (b) a caregiver shall be in the outdoor area when any child younger than 5 years old is in the outdoor area;~~
 - ~~_____ (c) caregivers shall know the number of children in their care at all times, and~~
 - ~~_____ (d) caregivers' attention shall be focused on the children and not on the caregivers' own personal interests.~~~~
- ~~_____ (2) A caregiver may allow only school age children to play outdoors while the caregiver is indoors when:

 - ~~_____ (a) the caregiver can hear the children playing outdoors; and~~
 - ~~_____ (b) the children are in an area completely enclosed within a fence, wall, or solid natural barrier that is at least a 4 feet high.~~~~
- ~~_____ (3) A caregiver shall monitor each sleeping infant by:

 - ~~_____ (a) placing each infant to sleep within the sight and hearing of the caregiver, or~~
 - ~~_____ (b) personally observing each sleeping infant at least once every 15 minutes.~~~~
- ~~_____ (4) A child may participate in supervised offsite activities without the provider if:

 - ~~_____ (a) the provider has prior written permission from the child's parent for the child's participation, and~~
 - ~~_____ (b) the provider has clearly assigned the responsibility for the child's whereabouts and supervision to a responsible adult who accepts that responsibility throughout the period of the offsite activity.~~~~
- ~~_____ (5) Whenever a child is in care, the child's parent shall have access to their child and the areas used to care for their child.~~
- ~~_____ (6) To maintain security and supervision of children, the provider shall ensure that:

 - ~~_____ (a) each child is signed in and out;~~
 - ~~_____ (b) only parents or persons with written authorization from the parent may sign out a child;~~
 - ~~_____ (c) photo identification is required if the individual signing the child in or out is unknown to the provider;~~
 - ~~_____ (d) persons signing children in and out use identifiers, such as a signature, initials, or electronic code;~~
 - ~~_____ (e) the sign in and sign out records include the date and time each child arrives and leaves; and~~
 - ~~_____ (f) there is written permission from their parents if school-age children sign themselves in and out.~~~~
- ~~_____ (7) In an emergency, the caregiver shall accept the parent's verbal authorization to release a child when the caregiver can confirm the identity of:

 - ~~_____ (a) the person giving verbal authorization, and~~
 - ~~_____ (b) the person picking up the child.~~~~

- ~~_____ (8) A six week record of each child's daily attendance, including sign in and sign out records, shall be kept on site for review by the Department.~~

R430 90 12. Child Guidance and Interaction.

- ~~_____ (1) The provider shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.~~
- ~~_____ (2) The provider shall inform parents, children, and those who interact with the children of the program's behavioral expectations and how any misbehavior will be handled.~~
- ~~_____ (3) Individuals who interact with the children shall guide children's behavior by using positive reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.~~
- ~~_____ (4) Caregivers shall use gentle, passive restraint with children only when it is needed to stop children from injuring themselves or others, or from destroying property.~~
- ~~_____ (5) Interactions with the children shall not include:

 - ~~_____ (a) any form of corporal punishment or any action that produces physical pain or discomfort such as hitting, spanking, shaking, biting, or pinching;~~
 - ~~_____ (b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint;~~
 - ~~_____ (c) shouting at children;~~
 - ~~_____ (d) any form of emotional abuse;~~
 - ~~_____ (e) forcing or withholding food, rest, or toileting; or~~
 - ~~_____ (f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.~~~~
- ~~_____ (6) Any person who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in Utah Code Section 62A 4a 403 and Section 62A 4a 411.~~

R430 90 13. Child Safety and Injury Prevention.

- ~~_____ (1) The building, outdoor area, toys, and equipment shall be used in a safe manner and as intended by the manufacturer to prevent injury to children.~~
- ~~_____ (2) 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:~~

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- ~~_____ (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) Tobacco, e cigarettes, e juice, e liquids, and similar products shall be inaccessible and, in compliance with the Utah Indoor Clean Air Act, 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) any problems encountered; and~~
 - ~~_____ (d) the number of children participating.~~
- ~~_____ (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 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) 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 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.

R430-90-16. Food and Nutrition.

- _____ (1) The provider shall ensure that each child age 2 years and older is offered a meal or snack at least once every 3 hours.
- _____ (2) When food for children's meals and/or snacks is supplied by the provider:
 - _____ (a) the meal service shall meet local health department food service regulations;
 - _____ (b) the foods that are served shall meet the nutritional requirements of the USDA Child and Adult Care Food Program (CACFP) whether or not the provider participates in the CACFP;
 - _____ (c) the provider shall use the CACFP meal pattern requirements, the standard Department-approved menus, or menus approved by a registered dietitian. Dietitian approval shall be noted and dated on the menus, and shall be current within the past 5 years;
 - _____ (d) the current week's menu shall be posted for review by parents and the Department; and

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~~(e) providers who are not participating or in good standing with the CACFP shall keep a six-week record of foods served at each meal and snack.~~

~~(3) The person who serves food to children shall:~~
~~(a) be aware of the children in their assigned group who have food allergies or sensitivities, and~~

~~(b) ensure that the children are not served the food or drink they are allergic or sensitive to.~~

~~(4) Children's food shall be served on dishes, napkins, or sanitary highchair trays, except an individual finger food, such as a cracker, that may be placed directly in a child's hand. Food shall not be placed on a bare table.~~

~~(5) Food and drink brought in by parents for their child's use shall be:~~

~~(a) labeled with the child's name or individually identified,~~

~~(b) refrigerated if needed, and~~

~~(c) consumed only by that child.~~

R430-90-17. Medications.

~~(1) All medications shall be inaccessible to children.~~

~~(2) All liquid refrigerated medications shall be stored in a separate leakproof container.~~

~~(3) All over-the-counter and prescription medications supplied by parents shall:~~

~~(a) be labeled with the child's full name,~~

~~(b) be kept in the original or pharmacy container,~~

~~(c) have the original label, and~~

~~(d) have child safety caps.~~

~~(4) The provider shall have a written medication permission form completed and signed by the parent before administering any medication supplied by the parent for their child.~~

~~(5) The medication permission form shall include:~~

~~(a) the name of the child,~~

~~(b) the name of the medication,~~

~~(c) written instructions for administration, and~~

~~(d) the parent signature and the date signed.~~

~~(6) The instructions for administering the medication shall include:~~

~~(a) the dosage,~~

~~(b) how the medication will be given,~~

~~(c) the times and dates to administer the medication, and~~

~~(d) the disease or condition being treated.~~

~~(7) If the provider supplies an over-the-counter medication for children's use, the medication shall not be administered to any child without previous parental consent for each instance it is given. The consent shall be:~~

~~(a) prior written consent; or~~

~~(b) verbal consent if the date and time of the consent is documented, and is signed by the parent upon picking up their child.~~

~~(8) The caregiver administering the medication shall:~~

~~(a) wash their hands,~~

~~(b) check the medication label to confirm the child's name if the parent supplied the medication,~~

~~(c) check the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer, and~~

~~(d) administer the medication.~~

~~(9) Immediately after administering a medication, the caregiver giving the medication shall record the following information:~~

~~(a) the date, time, and dosage of the medication given;~~

~~(b) any errors in administration or adverse reactions; and~~

~~(c) their signature or initials.~~

~~(10) The provider shall report a child's adverse reaction to a medication or error in administration to the parent immediately upon recognizing the reaction or error, or after notifying emergency personnel if the reaction is life-threatening.~~

~~(11) If the provider chooses not to administer medication as instructed by the parent, the provider shall notify the parent of their refusal to administer the medication before the time the medication needs to be given.~~

~~(12) The provider shall keep a six-week record of medication permission and administration forms on-site for review by the Department.~~

R430-90-18. Activities.

~~(1) The provider shall offer daily activities that support each child's healthy physical, social, emotional, cognitive, and language development.~~

~~(2) Daily activities shall include outdoor play as weather and air quality allow.~~

~~(3) Physical development activities shall include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every 2 hours children spend in the program.~~

~~(4) For children 2 years old and older, the provider shall post a daily schedule that includes:~~

~~(a) activities that support children's healthy development; and~~

~~(b) the times activities occur including at least meal, snack, nap or rest, and outdoor play times.~~

~~(5) Toys, materials, and equipment needed to support children's healthy development shall be available to the children.~~

~~(6) Except for occasional special events, 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 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) first aid 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) Cushioning for stationary play equipment shall cover the entire surface of each required use zone.~~

~~(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.~~

~~(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.~~

~~(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 or securely anchored.~~

~~(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.~~

~~(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.~~

~~(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.~~

~~(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(12).~~

~~(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.~~

~~(15) An accessible trampoline shall have shock absorbing pads that completely cover its springs, hooks, and frame.~~

~~(16) Before a child in care uses a trampoline, the provider shall have written permission from that child's parent or legal guardian.~~

~~(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,~~
- ~~(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 first aid supplies, including at least antiseptic, band-aids, and tweezers.~~

~~(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;~~

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- ~~_____ (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 reptiles and amphibians.~~
- ~~_____ (8) Dogs, cats, and ferrets that are housed at the facility shall have current rabies vaccinations.~~
- ~~_____ (9) The provider shall keep current animal vaccination records on-site for review by the Department.~~

R430-90-22. Rest and Sleep.

- ~~_____ (1) The provider shall offer children in care a daily opportunity for rest or sleep in an environment with subdued lighting, a low noise level, and freedom from distractions.~~
- ~~_____ (2) Nap or rest times shall not be scheduled for more than 2 hours daily.~~
- ~~_____ (3) Each crib used by children shall:~~
 - ~~_____ (a) have a tight fitting mattress;~~
 - ~~_____ (b) have slats spaced no more than 2 3/8 inches apart;~~
 - ~~_____ (c) have at least 20 inches from the top of the mattress to the top of the crib rail, or at least 12 inches from the top of the mattress to the top of the crib rail if the child using the crib cannot sit up without help;~~
 - ~~_____ (d) not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child; and~~
 - ~~_____ (e) meet CPSC standards.~~
- ~~_____ (4) Sleeping equipment may not block exits.~~
- ~~_____ (5) Sleeping equipment and bedding items that are clearly assigned to and used by an individual child shall be cleaned and sanitized as needed and at least weekly.~~
- ~~_____ (6) Sleeping equipment and bedding items that are not clearly assigned to and used by an individual child shall be cleaned and sanitized before each use.~~

R430-90-23. Diapering.

- ~~_____ If the provider accepts children who wear diapers:~~
 - ~~_____ (1) Caregivers shall ensure that each child's diaper is:~~
 - ~~_____ (a) checked at least once every 2 hours;~~
 - ~~_____ (b) promptly changed when wet or soiled, and~~
 - ~~_____ (c) checked as soon as a sleeping child awakens.~~
 - ~~_____ (2) The diapering area shall not be located in a food preparation or eating area.~~

- ~~_____ (3) Children shall not be diapered directly on the floor, or on any surface used for another purpose.~~
- ~~_____ (4) The diapering surface shall be smooth, waterproof, and in good repair.~~
- ~~_____ (5) Caregivers shall clean and sanitize the diapering surface after each diaper change, or use a disposable, waterproof diapering surface that is thrown away after each diaper change.~~
- ~~_____ (6) Caregivers shall wash their hands after each diaper change.~~
- ~~_____ (7) Caregivers shall place wet and soiled disposable diapers:~~
 - ~~_____ (a) in a container that has a disposable plastic lining and a tight fitting lid;~~
 - ~~_____ (b) directly in an outdoor garbage container that has a tight fitting lid, or~~
 - ~~_____ (c) in a container that is inaccessible to children.~~
- ~~_____ (8) Indoor containers where wet and soiled diapers are placed shall be cleaned and sanitized each day.~~
- ~~_____ (9) If cloth diapers are used:~~
 - ~~_____ (a) they shall not be rinsed at the facility; and~~
 - ~~_____ (b) they shall be placed directly into a leakproof container that is inaccessible to any child and labeled with the child's name, or placed in a leakproof diapering service container.~~

R430-90-24. Infant and Toddler Care.

- ~~_____ If the provider cares for infants or toddlers:~~
 - ~~_____ (1) Each awake infant and toddler shall receive positive physical and verbal interaction with a caregiver at least once every 20 minutes.~~
 - ~~_____ (2) To stimulate their healthy development, the provider shall ensure that infants receive daily interactions with adults; including on the ground interaction and closely supervised time spent in the prone position for infants younger than 6 months of age.~~
 - ~~_____ (3) Caregivers shall respond promptly to infants and toddlers who are in emotional distress due to conditions such as hunger, fatigue, a wet or soiled diaper, fear, teething, or illness.~~
 - ~~_____ (4) For their healthy development, safe toys shall be available for infants and toddlers. There shall be enough toys accessible to each infant and toddler in the group to engage in play.~~
 - ~~_____ (5) Mobile infants and toddlers shall have freedom of movement in a safe area.~~
 - ~~_____ (6) An awake infant or toddler shall not be confined for more than 30 minutes in any piece of equipment, such as a swing, high chair, crib, playpen, or other similar piece of equipment.~~
 - ~~_____ (7) Only one infant or toddler shall occupy any one piece of equipment at any time, unless the equipment has individual seats for more than one child.~~
 - ~~_____ (8) Infants and toddlers shall not have access to objects made of styrofoam.~~
 - ~~_____ (9) Each infant and toddler shall be allowed to eat and sleep on their own schedule.~~
 - ~~_____ (10) Baby food, formula, or breast milk that is brought from home for an individual child's use shall be:~~
 - ~~_____ (a) labeled with the child's name;~~
 - ~~_____ (b) kept refrigerated if needed; and~~
 - ~~_____ (c) discarded within 24 hours of preparation or opening, except for unprepared powdered formula or dry food.~~
 - ~~_____ (11) If an infant is unable to sit upright and hold their own bottle, a caregiver shall hold the infant during bottle feeding. Bottles shall not be propped.~~
 - ~~_____ (12) The caregiver shall swirl and test warm bottles for temperature before feeding to children.~~

~~(13) Formula and milk, including breast milk, shall be discarded after feeding or within 2 hours of starting a feeding.~~

~~(14) Caregivers shall cut solid foods for infants into pieces no larger than 1/4 inch in diameter, and shall cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.~~

~~(15) Infants shall sleep in equipment designed for sleep such as a crib, bassinet, porta-crib or play pen. An infant shall not be placed to sleep on a mat, cot, pillow, bouncer, swing, car seat, or other similar piece of equipment unless the provider has written permission from the infant's parent.~~

~~(16) Infants shall be placed on their backs for sleeping unless there is documentation from a health care provider requiring a different sleep position.~~

~~(17) Soft toys, loose blankets, or other objects shall not be placed in cribs while in use by sleeping infants.]~~

R430-90-1. Legal Authority and Purpose.

(1) This rule is enacted and enforced in accordance with Utah Code, Title 26, Chapter 39.

(2) This rule establishes the foundational standards necessary to protect the health and safety of children in residential child care facilities and defines the general procedures and requirements to get and maintain a license to provide child care.

R430-90-2. Definitions.

(1) "Applicant" means a person or business who has applied for a new or a renewal of a license from Child Care Licensing.

(2) "Background Finding" means information in a background check that may result in a denial from Child Care Licensing.

(3) "Background Check Denial" means that an individual has failed the background check and is prohibited from being involved with a child care program.

(4) "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.

(5) "Body Fluid" means blood, urine, feces, vomit, mucus, or saliva.

(6) "Business Days and Hours" means the days of the week and times the facility is open for business.

(7) "Capacity" means the maximum number of children for whom care can be provided at any given time.

(8) "Caregiver-to-Child Ratio" means the number of caregivers responsible for a specific number of children.

(9) "CCL" means the Child Care Licensing Program in the Department of Health that is delegated with the responsibility to enforce the Utah Child Care Licensing Act.

(10) "Child Care" means continuous care and supervision of five or more qualifying children that is:

(a) in place of care ordinarily provided by a parent in the parent's home;

(b) for less than 24 hours a day; and

(c) for direct or indirect compensation.

(11) "Child Care Program" means a person or business that offers child care.

(12) "Choking Hazard" means an object or a removable part on an object with a diameter of less than 1-1/4 inches and a length of less than 2-1/4 inches that could be caught in a child's throat blocking their airway and making it difficult or impossible to breathe.

(13) "Conditional Status" means that the provider is at risk of losing their child care license because compliance with licensing rules has not been maintained.

(14) "Covered Individual" means any of the following individuals involved with a child care program:

(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 old or older who resides in the facility; and

(f) anyone who has unsupervised contact with a child in care.

(15) "Crib" means an infant's bed with sides to protect them from falling including a bassinet, porta-crib, or play pen.

(16) "Cushioning" means a shock-absorbing surface under and around play equipment that reduces the severity of injuries from falls.

(17) "Department" means the Utah Department of Health.

(18) "Designated Play Surface" means any accessible elevated surface for standing, walking, crawling, sitting or climbing; or an accessible flat surface at least two by two inches in size and having an angle less than 30 degrees from horizontal.

(19) "Emotional Abuse" means behavior that could harm a child's emotional development, such as threatening, intimidating, humiliating, demeaning, criticizing, rejecting, using profane language, or using inappropriate physical restraint.

(20) "Entrapment Hazard" means an opening greater than 3-1/2 by 6-1/4 inches and less than nine inches in diameter where a child's body could fit through but the child's head could not fit through, potentially causing a child's entrapment and strangulation.

(21) "Facility" means a child care program or the premises approved by the department to be used for child care.

(22) "Group" means the children who are assigned to and supervised by one or more caregivers.

(23) "Group Size" means the number of children in a group.

(24) "Guest" means an individual who is not a covered individual and is at the child care facility for a short time with the provider's permission.

(25) "Health Care Provider" means a licensed health professional, such as a physician, dentist, nurse practitioner, or physician's assistant.

(26) "Homeless" means anyone who lacks a fixed, regular, and adequate nighttime residence.

(27) "Inaccessible" means out of reach of children by being:

(a) locked, such as in a locked room, cupboard, or drawer;

(b) secured with a child safety device, such as a child safety cupboard lock or doorknob device;

(c) behind a properly secured child safety gate;

(d) located at least 36 inches above the floor; or

(e) if in a bathroom, at least 36 inches above any surface from where a child could stand or climb.

(28) "Infant" means a child who is younger than 12 months old.

(29) "Infectious Disease" means an illness that is capable of being spread from one individual to another.

(30) "Involved with Child Care" means to do any of the following at or for a child care program:

(a) care for or supervise children;

(b) volunteer;

(c) own, operate, direct;

(d) reside;

(e) count in the caregiver-to-child ratio; or

(f) have unsupervised contact with a child in care.

(31) "License" means a license issued by the department to provide child care services.

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(32) "Licensee" means the legally responsible person or business that holds a valid license from Child Care Licensing.

(33) "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.

(34) "Over-the-Counter Medication" means medication that can be bought without a written prescription including herbal remedies, vitamins, and mineral supplements.

(35) "Parent" means the parent or legal guardian of a child in care.

(36) "Physical Abuse" means causing nonaccidental physical harm to a child.

(37) "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.

(38) "Preschooler" means a child age two through four years old.

(39) "Provider" means the legally responsible person or business that holds a valid license from Child Care Licensing.

(40) "Qualifying Child" means:

(a) a child who is younger than 13 years old and is the child of an individual other than the child care provider or caregiver;

(b) a child with a disability who is younger than 18 years old and is the child of an individual other than the provider or caregiver; or

(c) a child who is younger than four years old and is the child of the provider or a caregiver.

(41) "Related Child" means a child for whom a provider is the parent, legal guardian, step-parent, grandparent, step-grandparent, great-grandparent, sibling, step-sibling, aunt, step-aunt, great-aunt, uncle, step-uncle, or great-uncle.

(42) "Residential Child Care" means care that takes place in a child care provider's home.

(43) "Sanitize" means to use a product or process to reduce contaminants and bacteria to a safe level.

(44) "School-Age Child" means a child age five through 12 years old.

(45) "Sexual Abuse" means to take indecent liberties with a child with the intention to arouse or gratify the sexual desire of an individual or to cause pain or discomfort.

(46) "Sexually Explicit Material" means any depiction of actual or simulated sexually explicit conduct.

(47) "Sleeping Equipment" means a cot, mat, crib, bassinet, porta-crib, playpen, or bed.

(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.

(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 two 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 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.

(50) "Toddler" means a child age 12 through 23 months old.

(51) "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 check.

(52) "Use Zone" means the area beneath and surrounding a play structure or piece of equipment that is designated for unrestricted movement around the equipment, and onto which a child falling from or exiting the equipment could be expected to land.

(53) "Volunteer" means an individual who receives no form of direct or indirect compensation for their service.

(54) "Working Days" means the days of the week the department is open for business.

R430-90-3. License Required.

(1) An individual shall be licensed as a licensed family child care provider if they provide care:

(a) in the home where they reside;

(b) in the absence of the child's parent;

(c) for five to 16 unrelated children;

(d) for four or more hours a day;

(e) for each individual child for less than 24 hours a day;

(f) on a regularly scheduled, ongoing basis; and

(g) for direct or indirect compensation.

(2) A person who is not required to be licensed may voluntarily become licensed, except for care that is for related children only or on a sporadic basis.

(3) A provider may be licensed to provide child care in a facility that is also licensed to offer foster or respite care services, or another licensed or certified human services program if the part of the building requesting a CCL license is physically separated from the other building services.

R430-90-4. License Application, Renewal, Changes, and Variances.

(1) Each applicant for a new child care license shall:

(a) submit an online application;

(b) submit a copy of a current local fire clearance or a statement from the local fire authority that a fire inspection is not required;

(c) submit 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) submit a copy of a current local business license or a statement from the city that a business license is not required;

(e) complete CCL background checks for covered individuals as required in Section R430-90-8;

(f) complete CCL new provider training no more than six months before becoming licensed; and

(g) pay any required fees, which are nonrefundable.

(2) Each 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 an applicant for a new license or a renewal does not require a fire inspection, the department shall verify the applicant's compliance with the following:

(a) address numbers and letters are readable from the street;

(b) exit doors operate properly and are well maintained;

(c) there are no obstructions in exits, aisles, corridors, and stairways;

(d) there is at least one unobstructed fire extinguisher on each level of the building, currently charged and serviced, and mounted not more than five feet above the floor;

(e) there are working smoke detectors that are properly installed on each level of the building; and

(f) boiler, mechanical, and electrical panel rooms are not used for storage.

(4) If an applicant for a new license or a renewal serves food and the local health department states that a kitchen inspection is not required, the department shall verify the applicant's compliance with the following:

(a) the refrigerator is clean, in good repair, and working at or below 41 degrees Fahrenheit;

(b) there is a working thermometer in the refrigerator;

(c) there is a working stem thermometer available to check cooking and hot hold temperatures;

(d) reusable food holders, utensils, and food preparation surfaces are washed, rinsed, and sanitized before each use;

(e) chemicals are stored away from food and food service items;

(f) food is properly stored, kept to the proper temperature, and in good condition; and

(g) there is a working handwashing sink in the kitchen.

(5) Each applicant shall have six months from the time any portion of the application is submitted to finish the licensing process. If unsuccessful, the applicant shall reapply. Any resubmission must include the required documentation, payment of licensing fees, and a new inspection of the facility in order to be licensed.

(6) The department may deny an application for a license if, within the five 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 a rule violation 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, each provider shall submit for renewal:

(a) an online renewal request;

(b) applicable renewal fees;

(c) any previous unpaid fees; and

(d) a copy of a current fire inspection report.

(9) The department may grant a provider who fails to renew their license by the expiration date an additional 30 days to complete the renewal process if the provider pays a late fee.

(10) The department may deny renewal of a license for a provider who is no longer caring for children.

(11) Each 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) A provider shall submit a complete online changes request 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 type of the program;

(d) a change in the name of the provider; or

(e) a transfer of business ownership.

(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) Only the department may assign, transfer, or amend a license.

(15) If an applicant or provider cannot comply with a rule but can meet the intent of the rule in another way, the applicant or provider may apply for a variance to that rule by submitting a request to the department.

(16) Each provider shall comply with the existing rules until a variance is approved by the department.

(17) If a variance is approved, the provider shall keep a copy of the written approval on-site for review by parents and the department.

(18) The department may grant variances for up to 12 months.

(19) 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) fails to allow authorized representatives of the department access to the facility to ensure compliance with this rule;

(f) fails to submit or make available to the department any written documentation required to verify compliance with this rule;

(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 an individual from having a license.

(5) Within ten 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 the children's 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 a child care provider to suspend services and 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 four 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 the 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 a day as provided in Section 26-39-601.

(12) The department may assess a civil money penalty and also take action to deny, place on conditional status, revoke, immediately close, or refuse to renew a license.

(13) 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 checks, civil money penalties, and other fees assessed by the department.

(14) An applicant or provider may appeal any department decision within 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 old;
- (b) pass a CCL background check;
- (c) complete the new provider training offered by the department; and
- (d) complete at least 20 hours of child care training each year, based on the facility's license date.

(2) The provider shall protect children from conduct that endangers children in care, or is contrary to the health, morals, welfare, and safety of the public.

(3) The provider shall know and comply with each applicable federal, state, and local law, ordinance, and rule, and shall be responsible for the operation and management of a child care program.

(4) The provider shall comply with licensing rules any time a child in care is present.

(5) The provider shall post their unaltered child care license on the facility premises in a place readily visible and accessible to the public during business hours.

(6) The provider shall post a current copy of the department's Parent Guide at the facility for parent review during business hours or give a current copy to each parent.

(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:

- (a) have liability insurance; or
- (b) inform parents in writing that the provider does not have liability insurance.

(9) The provider shall ensure that a parent completes an admission and health assessment form for their child before the child is admitted into the child care program.

(10) The provider shall ensure that each child's admission and health assessment form includes 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 individuals authorized by the parent to sign the child out from the facility;
- (e) name, address, and phone number of an individual to be contacted if an emergency happens and the provider cannot contact the parent;
- (f) if available, the name, address, and phone number of an out-of-area emergency contact individual for the child;
- (g) parent's permission for emergency transportation and emergency medical treatment;
- (h) any known allergies of the child;
- (i) any known food sensitivities of the child;
- (j) any chronic medical conditions that the child may have;
- (k) instructions for special or nonroutine daily health care of the child;
- (l) current ongoing medications that the child may be taking; and
- (m) any other special health instructions for the caregiver.

(11) The provider shall ensure that the admission and health assessment form is:

- (a) reviewed, updated, and signed or initialed by the parent at least annually; and
- (b) kept on-site for review by the department.

(12) Before admitting any child younger than five years old into the child care program, including the provider's and employees' own children, the provider shall get the following documentation from the child's parent:

- (a) current immunizations;
- (b) a medical schedule to receive required immunizations;
- (c) a legal exemption; or
- (d) a 90-day exemption for children who are homeless.

(13) For each child younger than five years old, including the provider's and employees' own children, the provider shall keep their current immunization records on-site for review by the department.

(14) The provider shall submit the annual immunization report to the Immunization Program in the Utah Department of Health by the date specified by the department.

(15) The provider shall ensure that each child's information is kept confidential and not released without written parental permission except to the department.

R430-90-7. Personnel and Training Requirements.

(1) The provider shall be present at the home at least 50% of the time each week the program is open for business.

(2) If the provider is not present, the provider shall ensure that there is at least one covered individual who is 18 years old or older present at the facility when there is a child in care.

(3) The provider shall ensure that any covered individual caring for the children is supervised, qualified, and trained to:

- (a) meet the needs of the children as required by this rule; and
- (b) be in compliance with licensing rules.

(4) The provider shall ensure that caregivers:

- (a) are at least 16 years old;
- (b) pass a CCL background check;
- (c) receive at least 2-1/2 hours of preservice training before caring for children;
- (d) know and follow any applicable laws and rules;
- (e) complete at least 20 hours of child care training each year, based on the facility's license date, or at least 1-1/2 hours of child care training each month they work if hired partway through the facility's licensing year; and
- (f) do not have unsupervised contact with any child in care, including during offsite activities and transportation, if the caregivers are younger than 18 years old.

(5) The provider shall ensure that any other employees such as drivers, cooks, and clerks:

- (a) pass a CCL background check;
- (b) receive at least 2-1/2 hours of preservice training before beginning job duties;
- (c) know and follow any applicable laws and rules, and
- (d) do not have unsupervised contact with any child in care, including during offsite activities and transportation, if the employee is younger than 18 years old.

(6) The provider shall ensure that volunteers:

- (a) pass a CCL background check; and
- (b) do not have unsupervised contact with any child in care, including during offsite activities and transportation, if the volunteer is younger than 18 years old.

(7) The provider shall ensure that guests do not have unsupervised contact with any child in care, including during offsite activities and transportation.

(8) The provider shall submit a background check as required in Section R430-90-8 for each guest who is 12 years old and older and stays in the home for more than two weeks.

(9) The provider shall ensure that parents of children in care do not have unsupervised contact with any child in care, except with their own children.

(10) The provider shall ensure that household members who are:

- (a) 12 to 17 years old pass a CCL background check and do not have unsupervised contact with any child in care, including during offsite activities and transportation; and
- (b) 18 years old or older pass a CCL background check that includes fingerprints.

(11) The provider shall ensure that individuals who provide Individualized Educational Plan (IEP) or Individualized Family Service plan (IFSP) services such as physical, occupational, or speech therapists:

- (a) provide proper identification before having access to the facility or to a child at the facility; and
- (b) have received the child's parent's permission for services to take place at the facility.

(12) The provider shall ensure that individuals from law enforcement, Child Protective Services, the department, and any similar entities provide proper identification before having access to the facility or to a child at the facility.

(13) The provider shall ensure that preservice training includes at least the following topics:

- (a) job description and duties;
 - (b) current department rule Sections R430-90-7 through R430-90-24;
 - (c) disaster preparedness, response, and recovery;
 - (d) pediatric first aid and cardio pulmonary resuscitation (CPR);
 - (e) children with special needs;
 - (f) safe handling and disposal of hazardous materials;
 - (g) prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;
 - (h) principles of child growth and development, including brain development;
 - (i) prevention of shaken baby syndrome and abusive head trauma, and coping with crying babies;
 - (j) prevention of sudden infant death syndrome (SIDS) and the use of safe sleeping practices;
 - (k) recognizing the signs of homelessness and available assistance;
 - (l) a review of the information in each child's health assessment in the caregiver's assigned group, including allergies, food sensitivities, and other special needs; and
 - (m) an introduction and orientation to the children in care.
- (14) The provider shall keep documentation of each individual's preservice training on-site for review by the department and shall ensure that documentation includes at least the following:

- (a) training topics;
- (b) date of the training; and
- (c) total hours or minutes of training.

(15) The provider shall ensure that annual child care training includes at least the following topics:

- (a) current department rule Sections R430-90-7 through R430-90-24;
- (b) disaster preparedness, response, and recovery;
- (c) pediatric first aid and CPR;
- (d) children with special needs;
- (e) safe handling and disposal of hazardous materials;
- (f) the prevention, signs, and symptoms of child abuse and neglect, including child sexual abuse, and legal reporting requirements;
- (g) principles of child growth and development, including brain development;
- (h) prevention of shaken baby syndrome and abusive head trauma, and coping with crying babies;
- (i) prevention of sudden infant death syndrome (SIDS) and use of safe sleeping practices; and
- (j) recognizing the signs of homelessness and available assistance.

(16) The provider shall ensure that at least half of the required annual training is interactive.

(17) The provider shall ensure that documentation of each individual's annual child care training is kept on-site for review by the department and includes the following:

- (a) training topic;
- (b) date of the training;
- (c) name of the individual or organization that presented the training;
- (d) whether the training was interactive or not; and
- (d) total hours or minutes of training.

(18) When there are children at the facility, the provider shall ensure that there is at least one covered individual present who can

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demonstrate English literacy skills needed to care for children and respond to emergencies.

(19) The provider shall ensure that at least one covered individual with a current Red Cross, American Heart Association, or equivalent pediatric first aid and CPR certification is present when children are in care:

- (a) at the facility;
- (b) in each vehicle transporting children; and
- (c) at each offsite activity.

(20) The provider shall ensure that CPR certification includes hands-on testing.

(21) The provider shall ensure that the following records for each caregiver and volunteer are kept on-site for review by the department:

- (a) the date of initial employment or association with the program;
- (b) a current pediatric first aid and CPR certification, if required in this rule; and
- (c) a six-week record of the times worked each day.

R430-90-8. Background Checks.

(1) Before a new covered individual becomes involved with child care in the program, the provider shall use the CCL provider portal search to:

- (a) verify that the individual has a current CCL background check; and
- (b) associate that individual with their facility if the covered individual appears in the search.

(2) Before a new covered individual who does not appear in the CCL provider portal search becomes involved with child care in the program, the provider shall:

- (a) have the individual submit an online background check form and fingerprints for individuals age 18 years old and older;
- (b) authorize the individual's background check through the CCL provider's portal;
- (c) pay any required fees; and
- (d) receive written notice from CCL that the individual passed the background check.

(3) The department may include a covered individual by name on the CCL provider portal and consider that covered individual's background check to be current if the covered individual has:

- (a) passed a CCL background check;
- (b) resided in Utah since the last background check was completed; and
- (c) been associated with an active, CCL approved child care facility within the past 180 days.

(4) Within ten working days from when a child who resides in the facility turns 12 years old, the provider shall:

- (a) ensure that an online background check form is submitted;
- (b) authorize the child's background check through the CCL provider's portal; and
- (c) pay any required fees.

(5) The provider shall ensure that fingerprints are prepared by a local law enforcement agency or an agency approved by local law enforcement.

(6) If fingerprints are submitted electronically through live scan, the provider shall ensure that the agency taking the fingerprints is one that follows the department's guidelines.

(7) The department may deny a covered individual from being involved with child care for any of the following background findings:

- (a) LIS supported findings;
- (b) the covered individual's name appears on the Utah or national sex offender registry;
- (c) any felony convictions; or
- (d) for any of the reasons listed under Subsection R430-90-8(8).

(8) The department may also deny a covered individual from being involved with child care for any of the following convictions regardless of severity:

- (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 an individual;
- (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.

(9) The department shall approve a covered individual if the only background finding is a conviction or plea of no contest to a nonviolent drug offense that occurred ten or more years before the CCL background check was conducted.

(10) If the provider fails to pass a background check, the department may suspend or deny their license until the reason for the denial is resolved.

(11) 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.

(12) 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 to the Department of Public Safety.

(13) If a covered individual disagrees with a supported finding on the Department of Human Services Licensing Information System (LIS), the covered individual may appeal the finding to the Department of Human Services.

(14) The provider and the covered individual shall notify the department within 48 hours of becoming aware of the covered individual's arrest warrant, felony or misdemeanor arrest, charge, conviction, or supported LIS finding. Failure to notify the department within 48 hours may result in disciplinary action, including revocation of the license.

(15) The Executive Director of the Department of Health may overturn a background check denial if the Executive Director determines that the nature of the background finding or mitigating circumstances do not pose a risk to children.

R430-90-9. Facility.

(1) The provider shall ensure that there is at least 35 square feet of indoor space for each child in care, including the provider's and employees' children.

(2) The department may include as indoor space per child 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 materials for children.

(3) The department may not include the following areas when measuring indoor space for children's use:

(a) bathrooms;

(b) closets;

(c) hallways;

(d) lobbies; and

(e) entryways.

(4) The department may limit the maximum allowed capacity for a child care facility based on local ordinances.

(5) The provider shall ensure that the number of children in care at any given time does 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 five working days and follow required procedures for remediation of the lead hazard.

(7) The provider shall ensure that each room and indoor area that is used by children is ventilated by mechanical ventilation, or by windows that open and have screens.

(8) The provider shall ensure that rooms and areas have adequate light intensity for the safety of the children and the type of activity being conducted.

(9) The provider shall maintain the indoor temperature between 65 and 82 degrees Fahrenheit.

(10) The provider shall ensure that there is a working telephone at the facility, in each vehicle while transporting children, and during offsite activities.

(11) The provider shall ensure that there is at least one working toilet and at least one working handwashing sink accessible to each nondiapered child in care.

(12) The provider shall ensure that there is at least one bathroom that provides privacy available for use by school-age children.

(13) The provider shall ensure that there is an outdoor area that is safely accessible to children.

(14) The provider shall ensure that the outdoor area has at least 40 square feet of space for each child using the area at one time.

(15) The provider shall ensure that the outdoor area is enclosed within a fence, wall, or solid natural barrier that is at least four feet high if the facility is on a street or within a half mile of a street that:

(a) has a speed of 25 miles per hour or higher; or

(b) has more than two lanes of traffic.

(16) The provider shall ensure that the following hazards are separated from the children's outdoor area with a fence, wall, or solid natural barrier that is at least four feet high:

(a) barbed wire that is within 30 feet of the children's play area;

(b) livestock on or within 50 yards of the property line;

(c) dangerous machinery, such as farm equipment, on or within 50 yards of the property line;

(d) a drop-off of more than five feet on or within 50 yards of the property line; and

(e) a water hazard, such as a swimming pool, pond, ditch, lake, reservoir, river, stream, creek, or animal watering trough, on or within 100 yards of the property line.

(17) The provider shall ensure that there is no gap five by five inches or greater in or under the fence or barrier.

(18) The provider shall ensure that there is shade available to protect the children from excessive sun and heat when children are in the outdoor area.

(19) If there is a swimming pool on the premises that is not emptied after each use, the provider shall:

(a) meet applicable state and local laws and ordinances related to the operation of a swimming pool;

(b) maintain the pool in a safe manner; and

(c) when not in use, cover the pool with a commercially-made safety enclosure that is installed according to the manufacturer's instructions, or enclose the pool within at least a four-foot-high fence or solid barrier that is kept locked and that separates the pool from any other areas on the premises.

(20) If there is a hot tub with water in it on the premises, the provider shall make the hot tub is inaccessible to children by:

(a) keeping the hot tub locked with a properly working cover; or

(b) enclosing the hot tub within at least a four-foot-high fence or solid barrier that is kept locked and that separates the hot tub from any other areas on the premises.

(21) The provider shall maintain buildings and outdoor areas in good repair and safe condition including:

(a) ceilings, walls, and floor coverings;

(b) lighting, bathroom, and other fixtures;

(c) draperies, blinds, and other window coverings;

(d) indoor and outdoor play equipment;

(e) furniture, toys, and materials accessible to the children; and

(f) entrances, exits, steps, and walkways including keeping them free of ice, snow, and other hazards.

(22) The provider shall ensure that accessible raised decks or balconies that are five feet or higher, and open stairwells that are five feet or deeper have protective barriers that are at least three feet high.

(23) If the house is subdivided, any part of the building is rented out, or any area of the facility is shared including the outdoor area, the department may inspect the entire facility and the provider shall ensure that covered individuals in the facility comply with this rule, except when the following conditions are met:

(a) there is a signed rental or lease agreement for the rented area;

(b) there is a separate mailing address for the rented area;

(c) there is a separate entrance for the child care program;

(d) there are no connecting interior doorways that can be used by unauthorized individuals; and

(e) there is no shared access to the outdoor area, unless a qualified caregiver is with the children each time children in care are using the outdoor area.

R430-90-10. Ratios and Group Size.

(1) The provider shall maintain at least:

(a) one caregiver for up to eight children in care; and

(b) two caregivers for nine to 16 children in care.

(2) The provider shall include the provider's and employees' children age four years old or older in care:

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- (a) in the group size when the parent of the child is working at the facility; and
- (b) in the group size and the caregiver-to-child ratio when the parent of the child is not working at the facility.
- (3) When caring for children younger than two years old, the provider shall ensure that:
 - (a) there is at least one caregiver if there are up to two children younger than two years old in care;
 - (b) there are at least two caregivers when there are three to four children younger than two years old in care; and
 - (c) if there are six or fewer children in care, there is at least one caregiver with up to three children younger than two years old in care.
- (4) The provider shall not exceed the group sizes found in Table 1 and Table 2.

TABLE 1

MAXIMUM GROUP SIZE WITH 1 CAREGIVER

<u># of Provider's and Caregivers' Own Children Ages 4-12 Years Present During Child Care Hours</u>	<u>Maximum Allowed # of Children in Care, Including the Provider's and Caregivers' Own Children Younger than 4 years old</u>	<u>Total # of Children Present in the Home During Child Care Hours</u>
0-4 Children	8 children	12 Children
5 Children	7 children	12 Children
6 Children	6 children	12 Children
7 Children	5 children	12 Children
8 Children	4 children	12 Children
9 Children	3 children	12 Children
10 Children	2 children	12 Children
11 Children	1 child	12 Children

TABLE 2

MAXIMUM GROUP SIZE WITH 2 CAREGIVERS

<u># of Provider's and Caregivers' Own Children Ages 4-12 Years Present During Child Care Hours</u>	<u>Maximum Allowed # of Children in Care, Including the Provider's and Caregivers' Own Children Younger than 4 years old</u>	<u>Total # of Children Present in the Home During Child Care Hours</u>
0-8 Children	16 children	24 Children
9 Children	15 children	24 Children
10 Children	14 children	24 Children
11 Children	13 children	24 Children
12 Children	12 children	24 Children
13 Children	11 children	24 Children
14 Children	10 children	24 Children
15 Children	9 children	24 Children
16 Children	8 children	24 Children
17 Children	7 children	24 Children
18 Children	6 children	24 Children
19 Children	5 children	24 Children
20 Children	4 children	24 Children
21 Children	3 children	24 Children
22 Children	2 children	24 Children
23 Children	1 child	24 Children

- (5) The provider may include caregivers and volunteers who are 16 or 17 years old in the caregiver-to-child ratio.
- (6) The provider shall ensure that guests do not count in caregiver-to-child ratio.

R430-90-11. Child Supervision and Security.

- (1) The provider shall ensure that caregivers provide and maintain active supervision of each child, including:
 - (a) a caregiver is inside the home when a child in care is inside the home;
 - (b) a caregiver is in the outdoor area when a child younger than five years old is in the outdoor area;
 - (c) caregivers know the number of children in their care at any time; and
 - (d) caregivers' attention is focused on the children and not on caregivers' personal interests.
- (2) The provider may allow school-age children to be outdoors while caregivers are indoors if:
 - (a) a caregiver can hear the children when children are outdoors; and
 - (b) the children are in a area completely enclosed within a fence, wall, or solid natural barrier that is at least four feet high.
- (3) The provider shall ensure that a caregiver monitors each sleeping infant by:
 - (a) placing each infant to sleep within the sight and hearing of a caregiver; or
 - (b) personally observing each sleeping infant at least once every 15 minutes.
- (4) The provider may allow a child to participate in supervised offsite activities without a caregiver if:
 - (a) the provider has prior written permission from the child's parent for the child's participation; and
 - (b) the provider has clearly assigned the responsibility for the child's whereabouts and supervision to a responsible adult who accepts that responsibility throughout the period of the offsite activity.
- (5) The provider shall ensure that parents have access to their child and the areas used to care for their child when their child is in care.
- (6) To maintain security and supervision of children, the provider shall ensure that:
 - (a) each child is signed in and out;
 - (b) only parents or individuals with written authorization from the parent may sign out a child;
 - (c) photo identification is required if the individual signing the child out is unknown to the provider;
 - (d) individuals signing children in and out use identifiers, such as a signature, initials, or electronic code;
 - (e) the sign-in and sign-out records include the date and time each child arrives and leaves; and
 - (f) there is written permission from the child's parent if school-age children sign themselves in or out.
- (7) In an emergency, the provider shall accept the parent's verbal authorization to release a child if the provider can confirm the identity of:
 - (a) the individual giving verbal authorization; and
 - (b) the individual picking up the child.
- (8) The provider shall ensure that a six-week record of each child's daily attendance, including sign-in and sign-out records, is kept on-site for review by the department.

R430-90-12. Child Guidance and Interaction.

- (1) The provider shall ensure that no child is subjected to physical, emotional, or sexual abuse while in care.
- (2) The provider shall inform parents, children, and those who interact with the children of the program's behavioral expectations and how any misbehavior will be handled.
- (3) The provider shall ensure that individuals who interact with the children guide children's behavior by using positive

reinforcement, redirection, and by setting clear limits that promote children's ability to become self-disciplined.

(4) The provider shall ensure that caregivers use gentle, passive restraint with children only when it is needed to protect children from injuring themselves or others, or to stop them from destroying property.

(5) The provider shall ensure that interactions with the children do not include:

(a) any form of corporal punishment or any action that produces physical pain or discomfort such as hitting, spanking, shaking, biting, or pinching;

(b) restraining a child's movement by binding, tying, or any other form of restraint that exceeds gentle, passive restraint;

(c) shouting at children;

(d) any form of emotional abuse;

(e) forcing or withholding food, rest, or toileting; or

(f) confining a child in a closet, locked room, or other enclosure such as a box, cupboard, or cage.

(6) Any individual who witnesses or suspects that a child has been subjected to abuse, neglect, or exploitation shall immediately notify Child Protective Services or law enforcement as required in state law.

R430-90-13. Child Safety and Injury Prevention.

(1) The provider shall ensure that the building, outdoor area, toys, and equipment are used in a safe manner and as intended by the manufacturer to prevent injury to children.

(2) The provider shall ensure that poisonous and harmful plants are inaccessible to children.

(3) The provider shall ensure that sharp objects, edges, corners, or points that could cut or puncture skin are inaccessible to children.

(4) The provider shall ensure that choking hazards are inaccessible to children younger than three years old.

(5) The provider shall ensure that strangulation hazards such as ropes, cords, chains, and wires attached to a structure and long enough to encircle a child's neck are inaccessible to children.

(6) The provider shall ensure that tripping hazards such as unsecured flooring, rugs with curled edges, or cords in walkways are inaccessible to children.

(7) The provider shall ensure that empty plastic bags large enough for a child's head to fit inside, latex gloves, and balloons are inaccessible to children younger than five years old.

(8) The provider shall ensure that standing water that measures two inches or deeper and five by five inches or greater in diameter is inaccessible to children.

(9) The provider shall ensure that toxic or hazardous chemicals such as cleaners, insecticides, lawn products, and flammable, corrosive, and reactive materials are:

(a) inaccessible to children;

(b) used according to manufacturer instructions;

(c) stored in containers labeled with the contents of the container; and

(d) disposed of properly.

(10) The provider shall ensure that the following items are inaccessible to children:

(a) matches or cigarette lighters;

(b) open flames;

(c) hot wax or other hot substances; and

(d) when in use, portable space heaters, wood burning stoves, and fireplaces.

(11) The provider shall ensure that the following items are inaccessible to children:

(a) live electrical wires; and

(b) for children younger than five years old, 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, the provider shall ensure that firearms such as guns, muzzel loaders, rifles, shotguns, hand guns, pistols, and automatic guns are:

(a) locked in a cabinet or area using a key, combination lock, or fingerprint lock; and

(b) stored unloaded and separate from ammunition.

(13) The provider shall ensure that weapons such as paintball guns, BB guns, airsoft guns, sling shots, arrows, and mace are inaccessible to children.

(14) The provider shall ensure that alcohol, illegal substances, and sexually explicit material are inaccessible, and not used on the premises, during offsite activities, or in center vehicles any time a child is in care.

(15) The provider shall ensure that an outdoor source of drinking water, such as individually labeled water bottles, a pitcher of water and individual cups, or a working water fountain is available to each child when the outside temperature is 75 degrees or higher.

(16) The provider shall ensure that areas accessible to children are free of heavy or unstable objects that children could pull down on themselves, such as furniture, unsecured televisions, and standing ladders.

(17) The provider shall ensure that hot water accessible to children does not exceed 120 degrees Fahrenheit.

(18) The provider shall ensure that highchairs that are used by children have T-shaped safety straps or safety devices that are used when a child is in the chair.

(19) The provider shall ensure that infant walkers with wheels are inaccessible to children.

(20) The provider shall ensure that tobacco, e-cigarettes, e-juice, e-liquids, and similar products are inaccessible and, in compliance with the Utah Indoor Clean Air Act, 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, Response, and Recovery.

(1) The provider shall have a written emergency preparedness, response, and recovery plan that:

(a) includes procedures for evacuation, relocation, shelter in place, lockdown, communication with and reunification of families, and continuity of operations;

(b) includes procedures for accommodations for infants and toddlers, children with disabilities, and children with chronic medical conditions;

(c) is available for review by parents, staff, and the departments during business hours; and

(d) is followed if an emergency happens, unless otherwise instructed by emergency personnel.

(2) The provider shall post the facility's street address and emergency numbers, including at least fire, police, and poison control.

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near the telephone in the home or in an area clearly visible to anyone needing the information.

(3) The provider shall keep first-aid supplies in the facility, including at least antiseptic, bandages, and tweezers.

(4) The provider shall conduct fire evacuation drills quarterly and make sure drills include a complete exit of each child, staff, and volunteers from the building.

(5) 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 individual supervising the drill;
- (d) the total time to complete the evacuation; and
- (e) any problems encountered and remediation.

(6) The provider shall conduct drills for disasters other than fires at least once every 12 months.

(7) 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 individual supervising the drill; and
- (e) any problems encountered and remediation.

(8) The provider shall vary the days and times on which fire and other disaster drills are held.

(9) The provider shall keep documentation of the previous 12 months of fire and disaster drills on-site for review by the department.

(10) The provider shall:

(a) give parents a written report on the day of occurrence of each incident, accident, or injury involving their child;

(b) ensure the report has the signatures of the caregivers involved, the provider, and the individual picking up the child; and

(c) if school-age children sign themselves out of the facility, send a copy of the report to the parent on the day following the occurrence.

(11) If a child is injured and the injury appears serious but not life-threatening, the provider shall contact the child's parent immediately.

(12) If a life-threatening injury to a child, or an injury that poses a threat of the loss of vision, hearing, or a limb happens, the provider shall:

(a) call emergency personnel immediately;

(b) contact the parent after emergency personnel are called; and

(c) if the parent cannot be reached, try to contact the child's emergency contact individual.

(13) If a child is injured while in care and receives medical attention, or for a child fatality, the provider shall:

(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 five business days of the incident.

(14) The provider shall keep a six-week record of each incident, accident, and injury report on-site for review by the department.

(15) If the provider must leave the children due to an emergency and a background checked covered individual who is at least 18 years old or older is not available to stay with the children, the provider may leave the children in the care of an emergency substitute who:

- (a) is at least 18 years old;

(b) substitutes the caregiver for the minimum period of time possible and for less than one business day; and

(c) signs a written background statement before being left alone with the children.

(16) Before leaving for the emergency, the provider shall obtain a signed, written background statement from the emergency substitute stating that the emergency substitute:

(a) has not been convicted of a felony;

(b) has not been convicted of a crime against a person;

(c) is not listed on the state or national sex offender registry; and

(d) is not being investigated for abuse or neglect by any federal, state, or local government agency.

(17) Within five working days after the occurrence, the provider shall submit emergency substitute's written background statements to the department for review.

R430-90-15. Health and Infection Control.

(1) The provider shall keep the building, furnishings, equipment, and outdoor area clean and sanitary including:

(a) walls and flooring clean and free of spills, dirt, and grime;

(b) areas and equipment used for the storage, preparation, and service of food clean and sanitary;

(c) surfaces free of rotting food or a build-up of food;

(d) the building and grounds free of a build-up of litter, trash, and garbage;

(e) frequently touched surfaces, including doorknobs and light switches, cleaned and sanitized; and

(f) the facility free of animal feces.

(2) The provider shall take safe and effective measures to prevent and eliminate the presence of insects, rodents, and other pests.

(3) The provider shall clean and sanitize any toys and materials used by children:

(a) at least once a week or more often if needed;

(b) after being put in a child's mouth and before another child plays with the toy; and

(c) after being contaminated by a body fluid.

(4) The provider shall ensure that fabric toys and items such as stuffed animals, cloth dolls, pillow covers, and dress-up clothes are machine washable and if used, washed at least each week or as needed.

(5) The provider shall clean and sanitize highchair trays before each use.

(6) The provider shall clean and sanitize water play tables or tubs daily if used by the children.

(7) The provider shall clean and sanitize bathroom surfaces including toilets, sinks, faucets, toilet and sink handles, and counters each day the facility is open for business.

(8) The provider shall clean and sanitize potty chairs after each use.

(9) The provider shall keep toilet paper in a dispenser that is accessible to children.

(10) The provider shall ensure that staff and volunteers wash their hands thoroughly with soap and running water:

(a) upon arrival;

(b) before handling or preparing food or bottles;

(c) before and after eating meals and snacks or feeding a child;

(d) after using the toilet or helping a child use the toilet;

(e) after contact with a body fluid;

(f) when coming in from outdoors; and

(g) after cleaning up or taking out garbage.

(11) The provider shall ensure that caregivers teach children how to wash their hands thoroughly and oversee handwashing when possible.

(12) The provider shall ensure that children wash their hands thoroughly with soap and running water:

- (a) upon arrival;
- (b) before and after eating meals and snacks;
- (c) after using the toilet;
- (d) after contact with a body fluid;
- (e) before using a water play table or tub; and
- (f) when coming in from outdoors.

(13) The provider shall ensure that only single-use towels, an electric hand dryer, or individually labeled cloth towels are used to dry hands.

(14) The provider shall ensure that if cloth towels are used, cloth towels are:

- (a) not shared; and
- (b) washed daily.

(15) The provider shall store personal hygiene items, such as toothbrushes, combs, and hair accessories separate, so they do not touch each other, and ensure they are not shared or they are sanitized between each use.

(16) The provider shall ensure that pacifiers, bottles, and nondisposable drinking cups are:

- (a) labeled with each child's name or individually identified; and
- (b) not shared, or washed and sanitized before being used by another child.

(17) The provider shall ensure that a child's clothing is promptly changed if the child has a toileting accident.

(18) The provider shall ensure that children's clothing that is wet or soiled from a body fluid is:

- (a) washed and dried; or

(b) placed in a leakproof container that is labeled with the child's name and returned to the parent.

(19) The provider shall take precautions when cleaning floors, furniture, and other surfaces contaminated by blood, urine, feces, or vomit, and ensure that, except for diaper changes and toileting accidents, staff cleaning these bodily fluids:

- (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) If a child becomes ill while in care, the provider shall:

(a) as soon as the illness is observed or suspected, contact the child's parent or, if the parent cannot be reached, an individual listed as the emergency contact; and

(b) if the child is ill with an infectious disease, make the child comfortable in a safe, supervised area that is separated from the other children until the parent arrives.

(21) The provider shall notify the parents of each child in care if any child, employee, or person in the home has an infectious disease or parasite, on the day the illness is discovered.

(22) If any child or employee has an infectious disease, an unusual or serious illness, or a sudden onset of an illness, the provider

shall notify the local health department on the day the illness is discovered.

(23) To prevent contamination of food, the spread of foodborne illnesses, and other diseases, the provider shall ensure that individuals with an infectious disease or showing symptoms such as diarrhea, fever, coughing, or vomiting do not prepare or serve foods.

R430-90-16. Food and Nutrition.

(1) The provider shall offer a meal or snack to each child age two years old and older at least once every three hours.

(2) If food for children's meals or snacks is supplied by the provider, the provider shall ensure that:

(a) the meal service meets local health department food service rules;

(b) the foods that are served meet the nutritional requirements of the USDA Child and Adult Care Food Program (CACFP) whether or not the provider participates in the CACFP;

(c) the provider uses the CACFP meal pattern requirements, the standard department-approved menus, or menus approved by a registered dietitian, and that dietitian approval is noted and dated on the menus, and current within the past five years;

(d) the current week's menu is posted for review by parents and the department; and

(e) if not participating or in good standing with the CACFP, keep a six-week record of foods served at each meal and snack.

(3) The provider shall ensure that the individual who serves food to children:

(a) is aware of the children in their assigned group who have food allergies or sensitivities; and

(b) ensures that the children are not served the food or drink they are allergic or sensitive to.

(4) The provider shall not place children's food on a bare table, and shall serve children's food on dishes, napkins, or sanitary highchair trays, except an individual finger food such as a cracker, which may be placed directly in a child's hand.

(5) If parents bring food and drink for their child's use, the provider shall ensure that the food is:

- (a) labeled with the child's name;
- (b) refrigerated if needed; and
- (c) consumed only by that child.

R430-90-17. Medications.

(1) The provider shall make medications inaccessible to children in care.

(2) The provider shall lock refrigerated medications or store them at least 36 inches above the floor and, if liquid, store them in a separate leakproof container.

(3) If parents supply any over-the-counter or prescription medications, the provider shall ensure those medications are:

- (a) labeled with the child's full name;
- (b) kept in the original or pharmacy container;
- (c) have the original label; and
- (d) have child-safety caps.

(4) The provider shall have a written medication permission form completed and signed by the parent before administering any medication supplied by the parent for their child.

(5) The provider shall ensure that the medication permission form includes at least:

- (a) the name of the child;
- (b) the name of the medication;
- (c) written instructions for administration; and
- (d) the parent signature and the date signed.

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- (6) The provider shall ensure that instructions for administering the medication include at least:
 - (a) the dosage;
 - (b) how the medication will be given;
 - (c) the times and dates to administer the medication; and
 - (d) the disease or condition being treated.
- (7) If the provider supplies an over-the-counter medication for children's use, the provider shall ensure that the medication is not administered to any child without previous parental consent for each instance it is given. The provider shall ensure that the consent is:
 - (a) written; or
 - (b) verbal, if the date and time of the consent is documented and signed by the parent upon picking up their child.
- (8) The provider shall ensure that the staff administering the medication:
 - (a) washes their hands;
 - (b) check the medication label to confirm the child's name if the parent supplied the medication;
 - (c) checks the medication label or the package to ensure that a child is not given a dosage larger than that recommended by the health care professional or manufacturer; and
 - (d) administers the medication.
- (9) The provider shall ensure that immediately after administering a medication, the staff giving the medication records the following information:
 - (a) the date, time, and dosage of the medication given;
 - (b) any error in administering the medication or adverse reactions; and
 - (c) their signature or initials.
- (10) The provider shall report to the parent a child's adverse reaction to a medication or error in administration of the medication immediately upon recognizing the reaction or error, or after notifying emergency personnel if the reaction is life-threatening.
- (11) The provider shall notify the parent before the time a medication needs to be given to a child if the provider chooses not to administer medication as instructed by the parent.
- (12) The provider shall keep a six-week record of medication permission and administration forms on-site for review by the department.

R430-90-18. Activities.

- (1) The provider shall offer daily activities that support each child's healthy physical, social, emotional, cognitive, and language development.
- (2) The provider shall ensure that daily activities include outdoor play as weather and air quality allow.
- (3) The provider shall ensure that physical development activities include light, moderate, and vigorous physical activity for a daily total of at least 15 minutes for every two hours children spend in the program.
- (4) For each child two 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) The provider shall ensure that toys, materials, and equipment needed to support children's healthy development are available to the children.
- (6) Except for occasional special events, the provider shall ensure that the children's primary screen time activity on media such as television, cell phones, tablets, and computers is:
 - (a) not allowed for children zero to 17 months old;

- (b) limited for children 18 months to four years old to one hour a day, or five hours a week with a maximum screen time of two hours per activity; and
- (c) planned to address the needs of children five to 12 years old.
- (7) If swimming activities are offered or if wading pools are used, the provider shall ensure that:
 - (a) the parent gives permission before their child in care uses the pool;
 - (b) caregivers stay at the pool supervising when a child is in the pool or has access to the pool, and when an accessible pool has water in it;
 - (c) diapered children wear swim diapers when they are in the pool;
 - (d) wading pools are emptied and sanitized after use by each group of children;
 - (e) if the pool is over four feet deep, there is 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 do not count toward the caregiver-to-child ratio.
- (8) If offsite activities are offered, the provider shall ensure that:
 - (a) the parent gives written consent before each activity;
 - (b) the required caregiver-to-child ratio and supervision are maintained during the entire activity;
 - (c) first aid supplies, including at least antiseptic, bandages, and tweezers are available;
 - (d) children's names are not used on nametags, t-shirts, or in other visible ways; and
 - (e) there is a way for caregivers and children to wash their hands with soap and water, or with wet wipes and hand sanitizer if there is no source of running water.
- (9) The provider shall ensure that a caregiver with the children takes the written emergency information and releases for each child in the group on each offsite activity, and that the information includes at least:
 - (a) the child's name;
 - (b) the parent's name and phone number;
 - (c) the name and phone number of an individual to notify if an emergency happens and 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) The provider shall ensure that, when in use, stationary play equipment is not placed on a hard surface such as concrete, asphalt, dirt, or the bare floor.
- (3) Except for trampolines, the provider shall ensure that stationary play equipment with a designated play surface that is 18 inches high or higher:
 - (a) has a surrounding three-foot use zone, free of hard objects or surfaces, that extends from the outermost edge of the equipment;
 - (b) has cushioning that covers the entire required used zone; and
 - (c) is stable or securely anchored.
- (4) The department may consider a trampoline on the premises to be inaccessible to children in care if the trampoline:

(a) is enclosed behind a locked fence or safety net that is at least three feet high;

(b) has no jumping mat; or

(c) is placed upside down.

(5) The provider shall ensure that each accessible trampoline without a safety net enclosure has at least a six-foot use zone that is measured from the outermost edge of the trampoline frame, and that is free from any structure or object including play equipment, trees, and fences.

(6) The provider shall ensure that each accessible trampoline with a properly installed, used as specified by the manufacturer, and in good repair safety net enclosure has at least a three-foot use zone that is measured from the outermost edge of the trampoline frame, and that is free from any structure or object including play equipment, trees, and fences.

(7) The provider shall ensure that each accessible trampoline with or without a safety net enclosure:

(a) is placed over grass;

(b) a six-inch deep cushioning; or

(c) other commercial cushioning.

(8) The provider shall ensure that cushioning for each accessible trampoline covers the entire required use zone.

(9) The provider shall ensure that each accessible trampoline has:

(a) no ladders or other objects within the use zone a child could use to climb on the trampoline; and

(b) shock absorbing pads that completely cover the trampoline springs, hooks, and frame.

(10) The provider shall receive written permission from a child's parent or legal guardian before that child uses the trampoline.

(11) The provider shall ensure that if a child uses an accessible trampoline:

(a) a caregiver is at the trampoline supervising;

(b) only one person at a time uses the trampoline;

(c) no child in care is allowed to do somersaults or flips on the trampoline;

(d) no one is allowed to be under the trampoline while the trampoline is in use; and

(e) only school-age children in care are allowed to use a trampoline.

(12) The provider shall ensure that there are no entrapment hazards on or within the use zone of any piece of stationary play equipment.

(13) The provider shall ensure that there are no strangulation hazards on or within the use zone of any piece of stationary play equipment.

(14) The provider shall ensure that there are no crush, shearing, or sharp edge hazards on or within the use zone of any piece of stationary play equipment.

(15) The provider shall ensure that there are no tripping hazards such as concrete footings, tree stumps, tree roots, or rocks within the use zone of any piece of stationary play equipment.

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) The provider shall ensure that each vehicle used for transporting children:

(a) is enclosed with a roof or top;

(b) is equipped with safety restraints;

(c) has a current vehicle registration;

(d) is maintained in a safe and clean condition; and

(e) contains first aid supplies, including at least antiseptic, bandages, and tweezers.

(3) The provider shall ensure that the safety restraints in each vehicle that transports children are:

(a) appropriate for the age and size of each child who is transported, as required by Utah law;

(b) properly installed; and

(c) in safe condition and working order.

(4) The provider shall ensure that the driver of each vehicle who is transporting children:

(a) is at least 18 years old;

(b) has and carries with them a current, valid driver's license for the type of vehicle being driven;

(c) has with them the written emergency contact information for each child being transported;

(d) ensures that each child being transported is in an individual safety restraint that is used according to Utah law;

(e) ensures that the inside vehicle temperature is between 60-85 degrees Fahrenheit;

(f) never leaves a child in the vehicle unattended by an adult;

(g) ensures that children stay seated while the vehicle is moving;

(h) never leaves the keys in the ignition when not in the driver's seat; and

(i) ensures that the vehicle is locked during transport.

(5) If 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 the children;

(c) the caregiver-to-child ratio is maintained; and

(d) a caregiver with the children has written emergency contact information and releases for the children being transported.

R430-90-21. Animals.

(1) The provider shall inform parents of the kinds of animals allowed at the facility.

(2) The provider shall ensure that there is 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 individual.

(3) The provider shall ensure that animals at the facility are clean and free of obvious disease or health problems that could adversely affect children.

(4) The provider shall ensure that there is no animal or animal equipment in food preparation or eating areas.

(5) The provider shall ensure that children younger than five years old do 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 provider shall ensure that the children wash their hands immediately after cleaning the animal or equipment.

(7) The provider shall ensure that children and staff wash their hands immediately after playing with or touching reptiles and amphibians.

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(8) The provider shall ensure that dogs, cats, and ferrets that are housed at the facility have current rabies vaccinations.

(9) The provider shall keep current animal vaccination records on-site for review by the department.

R430-90-22. Rest and Sleep.

(1) The provider shall offer children in care a daily opportunity for rest or sleep in an environment with subdued lighting, a low noise level, and freedom from distractions.

(2) The provider shall not schedule nap or rest times for more than two hours a day.

(3) The provider shall ensure that each crib:

(a) has a tight-fitting mattress;

(b) has slats spaced no more than 2-3/8 inches apart;

(c) has at least 20 inches from the top of the mattress to the top of the crib rail, or at least 12 inches from the top of the mattress to the top of the crib rail if the child using the crib cannot sit up without assistance;

(d) does not have strings, cords, ropes, or other entanglement hazards on the crib or within reach of the child; and

(e) has documentation from the manufacturer or retailer stating that the crib was built after June 28, 2011, or that the crib is certified if the crib was manufactured before that date.

(4) The provider shall ensure that sleeping equipment does not block exits.

(5) The provider shall ensure that sleeping equipment and bedding items are:

(a) clearly assigned to one child; and

(b) laundered as needed, but at least once a week, and before use by another child.

(6) The provider shall clean and sanitize sleeping equipment that is not clearly assigned to and used by an individual child before each use.

R430-90-23. Diapering.

If the provider accepts children who wear diapers:

(1) The provider shall ensure that each child's diaper is:

(a) checked at least once every two hours;

(b) promptly changed if wet or soiled; and

(c) checked as soon as a sleeping child awakens.

(2) The provider shall ensure that caregivers do not change children's diapers directly on the floor, in a food preparation or eating area, or on any surface used for another purpose.

(3) The provider shall ensure that the diapering surface is smooth, waterproof, and in good repair.

(4) The provider shall ensure that caregivers 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.

(5) The provider shall ensure that caregivers who change diapers wash their hands after each diaper change.

(6) The provider shall ensure that caregivers 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.

(7) Each day, the provider shall clean and sanitize indoor containers where wet and soiled diapers are placed.

(8) If cloth diapers are used, the provider shall:

(a) not rinse cloth diapers at the facility; and

(b) place cloth diapers directly into a leakproof container that is inaccessible to any child and labeled with the child's name, or place the cloth diapers in a leakproof diapering service container.

R430-90-24. Infant and Toddler Care.

If the provider cares for infants or toddlers:

(1) The provider shall ensure that each awake infant and toddler receives 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 six months old.

(3) The provider shall ensure that caregivers 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, the provider shall make safe toys available and accessible for each infant and toddler to engage in play.

(5) The provider shall ensure that mobile infants and toddlers have freedom of movement in a safe area.

(6) The provider shall not confine an awake infant or toddler in any piece of equipment, such as a swing, high chair, crib, playpen, or other similar piece of equipment for more than 30 minutes.

(7) The provider shall ensure that only one infant or toddler occupies any one piece of equipment at a time, unless the equipment has individual seats for more than one child.

(8) The provider shall make objects made of styrofoam inaccessible to infants and toddlers.

(9) The provider shall allow each infant and toddler to eat and sleep on their own schedule.

(10) The provider shall ensure that baby food, formula, or breast milk that is brought from home for an individual child's use is:

(a) labeled with the child's name;

(b) labeled with the date and time of preparation or opening of the container, 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, the provider shall ensure that a caregiver holds the infant during bottle feeding and that bottles are not propped.

(12) The provider shall ensure that the caregiver swirls and tests warm bottles for temperature before feeding to children.

(13) The provider shall discard formula and milk, including breast milk, after feeding or within two hours of starting a feeding.

(14) The provider shall ensure that caregivers cut solid foods for infants into pieces no larger than 1/4 inch in diameter, and cut solid foods for toddlers into pieces no larger than 1/2 inch in diameter.

(15) The provider shall ensure that infants sleep in equipment designed for sleep such as a crib, bassinet, porta-crib or playpen, and that infants are not 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) The provider shall place infants on their backs for sleeping unless there is documentation from a health care provider requiring a different sleep position.

(17) The provider shall not place soft toys, loose blankets, or other objects in sleep equipment while in use by sleeping infants.

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NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R512-80	Filing No. 52801

Agency Information

1. Department:	Human Services	
Agency:	Child and Family Services	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Carol Miller	801-557-1772	carolmiller@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R512-80. Definitions of Abuse, Neglect, and Dependency
3. Purpose of the new rule or reason for the change:
This rule is being changed in response to H.B. 244 passed in the 2020 General Session.
4. Summary of the new rule or change:
The proposed changes to this rule bring the rule in-line with statute from H.B. 244 (2020).

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
The proposed changes to this rule are not expected to have any fiscal impacts on state government revenues or expenditures as the revised language brings this rule current to language in H.B. 244 (2020).
B) Local governments:
There is no impact to local governments due to these rule changes. These revisions bring this rule in-line with H.B. 244 (2020).

C) Small businesses ("small business" means a business employing 1-49 persons):

There is no impact to small businesses due to this rule modification. These revisions bring this rule in-line with H.B. 244 (2020).

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There is no impact to non-small businesses due to this rule modification. These revisions bring this rule in-line with H.B. 244 (2020).

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no impact to other persons due to revision made to this rule. These revisions bring this rule in-line with H.B. 244 (2020).

F) Compliance costs for affected persons:

There are no compliance costs for affected persons associated with implementing this rule because these changes are not fiscal in nature.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

NOTICES OF PROPOSED RULES

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Human Services, Ann Williamson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

After conducting a thorough analysis, it was determined that this proposal will not result in a fiscal impact to small or non-small businesses because this rule brings definitions used by the Division of Child and Family Services in-line with statute.

B) Name and title of department head commenting on the fiscal impacts:

Ann Williamson, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 62A-4a-102		
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/31/2020

10. This rule change MAY become effective on: 08/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a

Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Mark Brasher, Deputy Director	Date:	05/28/2020
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R512. Human Services, Child and Family Services.

R512-80. Definitions of Abuse, Neglect, and Dependency.

R512-80-1. Purpose, Interpretation, and Authority.

(1) Purpose. ~~Under Utah law, Child and Family Services is responsible for providing child welfare services and protecting children from abuse, neglect, and dependency. In determining what constitutes abuse, neglect, or dependency, the definitions in Sections 62A-4a-101, et. seq., Sections 78A-6-105, et. seq., the Criminal Code, these Administrative Rules, and court opinions shall apply. These definitions are intended to clarify those definitions or judicial opinions. Conduct that qualifies as abuse, neglect, or dependency under a criminal statute or the Judicial Code or under Child and Family Services' civil statutes (Sections 62A-4a-101, et. seq.) however, shall qualify as abuse, neglect, or dependency even if these definitions inadvertently fail to bring such conduct within the scope of a particular definition. Some criminal statutes recognize defenses to abuse, neglect, or dependency that may not be applicable in Child and Family Services' civil investigations of child abuse, neglect, or dependency.]~~ The purpose of this rule is to specify definitions utilized by the Division of Child and Family Services (Child and Family Services).

~~(2) Interpretation. Child and Family Services' statutes and these definitions shall be interpreted broadly to protect children from abuse, neglect, or dependency. These definitions shall be applied and interpreted according to the following principles:~~

- ~~(a) These definitions supersede earlier definitions.~~
- ~~(b) In cases of ambiguity, the Child and Family Services' definition shall be construed to harmonize with the relevant statutory definitions (as interpreted by the courts) and to further Child and Family Services' statutory responsibility to protect children and act in the best interest of the child.]~~

~~(3)]~~(2) Authority. This rule is authorized by Section 62A-4a-102.

R512-80-2. Definitions.

(1) "Abandonment" means conduct by either a parent or legal guardian showing a conscious disregard for parental obligations where that disregard leads to the destruction of the parent-child relationship, except in the case of the safe relinquishment of a newborn child pursuant to Section 62A-4a-802. Abandonment also includes conduct specified in Section 78A-6-508.

(2) "Abuse" is as defined in Section 78A-6-105. It includes ~~but is not limited to~~ child endangerment, Domestic Violence Related Child Abuse, emotional abuse, fetal exposure to alcohol or other harmful substances, dealing in material harmful to a child, Pediatric Condition Falsification or medical child abuse ~~(formerly Munchhausen Syndrome by Proxy)~~, physical abuse, sexual abuse, and sexual exploitation.

(3) "Child endangerment" means subjecting a child to threatened harm. This also includes conduct outlined in Sections 76-5-112 and 76-5-112.5.

(4) "Chronic abuse" is as defined in Section 62A-4a-101.

(5) "Chronic neglect" is as defined in Section 62A-4a-101.

(6) "Cohabitant" is as defined in Section 78B-7-102[~~—(See Definitions) and in Administrative Rule R512-205.[}~~]

(7) "Custodian" means a person who has legal custody of a child or a person responsible for a child's care as defined in Section 62A-4a-402.

(8) "Dealing in material harmful to a child" means distributing[~~{~~], providing, or transferring possession[~~};~~]; exhibiting [~~{~~or showing[~~};~~]; or allowing immediate access to material harmful to a child or any other conduct constituting an offense under Sections 76-10-1201 through 76-10-1206.

(9) "Dependency" is as defined in Section 62A-4a-101. Dependency includes safe relinquishment of a newborn child as provided in Section 62A-4a-802.

(10) "Domestic Violence Related Child Abuse" means domestic violence between cohabitants in the presence of a child. It may be an isolated incident or a pattern of conduct[~~—(See Definitions) as defined in Administrative Rule R512-205.[}~~]

(11) "Educational neglect" means failure or refusal to make a good faith effort to ensure that a child receives an appropriate education, after receiving notice that the child has been frequently absent from school without good cause or that the parent has failed to cooperate with school authorities in a reasonable manner in accordance with Sections 78A-6-105 and 78A-6-319.

(12) "Emotional abuse" means engaging in conduct or threatening a child with conduct that causes or can reasonably be expected to cause the child emotional harm. This includes[~~but is not limited to~~]:

(a) [D]demeaning or derogatory remarks that affect or can reasonably be expected to affect a child's development of self and social competence; or

(b) [F]threatening harm, rejecting, isolating, terrorizing, ignoring, or corrupting.

(13) "Environmental neglect" means an environment that poses an unreasonable risk to the physical health or safety of a child.

(14) "Failure to protect" means failure to take reasonable action to remedy or prevent child abuse or neglect. Failure to protect includes the conduct of a non-abusive parent or guardian who knows the identity of the abuser or the person neglecting the child, but lies, conceals, or fails to report the abuse or neglect or the alleged perpetrator's identity.

(15) "Failure to thrive" means a medically diagnosed condition in which the child fails to develop physically. This condition is typically indicated by inadequate weight gain.

(16) "Fetal exposure to alcohol or other harmful substances" means a [condition in which a child has been exposed to or is dependent upon harmful substances as a result of the mother's use of illegal substances or abuse of prescribed medications during pregnancy, or has fetal alcohol spectrum disorder.]condition in which a newborn is adversely affected by the child's mother's substance abuse during pregnancy, has fetal alcohol syndrome or fetal alcohol spectrum disorder, or demonstrates drug or alcohol withdrawal symptoms. For the purpose of this definition, newborn withdrawal symptoms due to medications taken by the mother as legally prescribed, without indication of misuse, are expected and do not constitute fetal exposure.

(17) "Harm" is as defined in Section 78A-6-105[~~—(See also the definition of "threatened harm".)~~]

(18) "Material harmful to a child" means any visual, pictorial, audio, or written representation [~~{~~in whatever form, including performance[~~};~~], that includes pornographic or sexually explicit material, including nudity, sexual conduct, sexual excitement, or sadomasochistic abuse that:

(a) [F]taken as a whole, appeals to the prurient interest in sex of a child, and

(b) [F]is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for a child, and

(c) [F]taken as a whole does not have serious value for a child. "Serious value" includes only serious literary, artistic, political, or scientific value for a child.

(19) "Medical neglect" means failure or refusal to provide proper or necessary medical, dental, or mental health care or to comply with the recommendations of a medical, dental, or mental health professional necessary to the child's health, safety, or well-being. Exceptions and limitations are as provided in Section 78A-6-105.

(20) "Molestation" is as defined in Section 78A-6-105.

(21) "Neglect" is as defined in Section 78A-6-105. It includes [~~but is not limited to~~]abandonment, educational neglect, environmental neglect, failure to protect, failure to thrive, medical neglect, non-supervision, physical neglect, and sibling at risk.

(22) "Non-supervision" means the child is subjected to accidental harm or an unreasonable risk of accidental harm due to failure to supervise the child's activities at a level consistent with the child's age and maturity.

(23) "Pediatric Condition Falsification," [~~{~~formerly Munchausen Syndrome by Proxy[~~};~~], means a cluster of symptoms or signs, circumstantially related, in which the parent or guardian misrepresents information [~~and~~]or simulates or produces illness in a child, has knowledge about the etiology of the child's illness but denies such knowledge, seeks multiple medical procedures, or acute symptoms and signs of the illness cease when the child is separated from the parent or guardian.

(24) "Perpetrator" means a person substantially responsible for causing child abuse or neglect, or a person responsible for a child's care who permits another to abuse or neglect a child[~~—(See also), and includes a person who engages in conduct in Section 76-5-109.[}~~]

(25) "Physical abuse" means non-accidental physical harm or threatened physical harm of a child that may or may not be visible. It includes unexplained physical harm of an infant, toddler, disabled, or non-verbal child. "Physical harm" includes [~~but is not limited to~~] "physical injury" and "serious physical injury" as defined in Section 76-5-109.

(26) "Physical neglect" means failure to provide for a child's basic needs of food, clothing, shelter, or other care necessary for the child's health, safety, morals, or well-being.

(27) "Serious harm" includes [~~but is not limited to~~] "serious physical injury" as defined in Section 76-5-109.

(28) "Severe abuse" is as defined in Section 78A-6-105.[~~—~~]

(29) "Severe neglect" is as defined as in 78A-6-105.

(30) "Sexual abuse" is as defined in Section 78A-6-105. Sexual abuse also includes forcing a child under 18 years of age into marriage or cohabitation with an adult in an intimate relationship.

(31) "Sexual exploitation" is as defined in Section 78A-6-105.

(32) "Sibling at risk" means a child who is at risk of being abused or neglected because another child in the same home or with the same caregiver has been or is abused or neglected.

(33) "Threatened harm" [~~means any conduct that subjects a child to unreasonable risk of harm or any condition or situation likely to cause harm to a child.]~~is as defined in Section 78A-6-105.[~~—(See definition of "harm".)~~]

KEY: child welfare

Date of Enactment or Last Substantive Amendment: ~~March 15, 2012~~ 2020

Notice of Continuation: October 13, 2016

Authorizing, and Implemented or Interpreted Law: 62A-4a-102

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R523-4	Filing No. 52826

Agency Information

1. Department:	Human Services	
Agency:	Substance Abuse and Mental Health	
Room no.:	Second Floor	
Building:	Multi-Agency State Office Building	
Street address:	195 N 1950 W	
City, state:	Salt Lake City, UT	
Mailing address:	195 N 1950 W	
City, state, zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Thomas Dunford	801-538-4181	tdunford@utah.gov
Jonah Shaw	801-538-4219	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R523-4. Certification Requirements for Screening, Assessment, Prevention, Treatment and Recovery Support Programs for Adults
3. Purpose of the new rule or reason for the change:
These rule changes are being implemented to: 1) update the citation of legislative authority to make rules, 2) reflect the current practice of the division in regards to justice certification, 3) to clarify the effect of this rule on recovery residence, residential, vocational and life skills programs, medical clinics and sole proprietors who are licensed program through the Department of Human Services/Office of Licensing, and 4) to make technical changes and corrections.
4. Summary of the new rule or change:
The changes to this rule are as follows: 1) updated the citation of statutory authority to make this rule;

- 2) recovery residences and Residential, Vocational and Life Skills Programs have been included in the definitions;
- 3) the following have been included to agencies not required to certify, Residential, Vocational and Life Skills Programs and programs and sole proprietors who provide assessments only and do not provide treatment;
- 4) information on the list of Justice Reform Initiative (JRI) certified providers has been changed to represent the list now based on requests by providers;
- 5) timeframes for re-approval of certification have been added, and
- 6) words have been added and deleted for clarification, and to more fully match rule language.

Fiscal Information

5. Aggregate anticipated cost or savings to:
A) State budget:
The Division of Substance Abuse and Mental Health (Division) does not anticipate any budget costs or savings related to compliance with this rule. The changes are clarifying, and do not place any additional fiscal requirements or impacts on state agencies other than what is already required in the rule prior to this submission.
B) Local governments:
The Division does not anticipate any budget costs or savings related to compliance with this rule. The changes are clarifying, and do not place any additional fiscal requirements on local governments other than what is already required in the rule prior to this submission.
C) Small businesses ("small business" means a business employing 1-49 persons):
The Division does not anticipate any budget costs or savings related to compliance with this rule. The changes are clarifying, and do not place any additional fiscal requirements or impacts on small businesses other than what is already required in this rule prior to this submission.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
The Division does not anticipate any budget costs or savings related to compliance with this rule. The changes are clarifying, and do not place any additional fiscal requirements or impacts on non-small businesses other than what is already required in this rule prior to this submission.
E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an <i>agency</i>):
The Division does not anticipate any budget costs or savings related to compliance with this rule. The changes

are clarifying, and do not place any additional fiscal requirements on persons other than small businesses, non-small businesses, state or local government entities other than what is already required in this rule prior to this submission.

F) Compliance costs for affected persons:

This rule change places no effect on compliance costs for affected persons.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Human Services, Ann Williamson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

After thorough consideration, it has been determined that businesses will not be financially impacted by this rule change.

B) Name and title of department head commenting on the fiscal impacts:

Ann Williamson, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 62A-15-118		
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/31/2020

10. This rule change MAY become effective on: 08/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Mark Brasher, Deputy Director	Date:	05/29/2020
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R523. Human Services, Substance Abuse and Mental Health. R523-4. Certification Requirements for Screening, Assessment, Prevention, Treatment and Recovery Support Programs for Adults. R523-4-1. Authority.

(1) This rule is authorized by [Section] Subsection 62A-15-103[(+)](2)(i) and Subsection 62A-15-103(2)[(a)(+)](i) requiring the Division of Substance Abuse and Mental Health (Division) to establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, minimum standards and requirements for the provision of substance use disorder and mental health treatment for

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adults required to participate in treatment by the court or the Board of Pardons and Parole.

R523-4-2. Purpose.

(1) This rule prescribes the minimum standards required for justice certification of mental health and substance use disorder (SUD) providers serving adults participating in mandatory education and treatment programs designed to reduce criminogenic risk.

R523-4-3. Definitions.

(1) "Screening" means a preliminary appraisal of an adult to determine if further assessment of mental health, and/or substance use risk and needs is warranted.

(2) "Assessment" means an in-depth clinical interview with a licensed mental health therapist, used to:

- (a) ~~[D]~~ determine if an adult is in need of ~~[]~~ ~~(i) Mental~~ mental health or substance use disorder treatment~~[]~~;
- ~~[]~~ ~~(ii) An~~ an educational series~~[]~~; and
- ~~[]~~ ~~(iii) Recovery~~ recovery support services; and

(b) ~~[R]~~ recommend a needed level of care or array of services.

(3) "Criminogenic Risk" means individual characteristics that are directly related to researched causations of crime.

(4) "Level of Care" means the intensity of either substance use disorder services needed as defined by the American Society of Addiction Medicine (ASAM) or the array of services needed to address an individual's mental health issues.

(5) "Treatment" means the array of therapeutic services, including individual, family, group services, medications and interventions designed to improve and enhance social or psychological functioning and reduce criminogenic risk for individuals identified as having either mental health or substance use disorders.

(6) "Educational Series" means an evidence-based instructional series obtained at a substance use disorder program that is approved by the Division of Substance Abuse and Mental Health in accordance with Subsection~~[Section]~~ 62A-15-105(6) designed to prevent the onset of substance use and/or mental health disorders.

(7) "Recovery" means a process of change through which individuals improve their health and wellness, live a self-directed life, and strive to reach their full potential.

(8) "Recovery Support" means social support services or activities provided before, during or after completion of acute treatment services to enhance an individual's ability to either attain or retain their recovery from either mental health or substance use disorders.

(9) "Recovery residence" means a home, residence, or facility as defined by Subsection 62A-2-101(33).

(10) "Residential, Vocational and Life Skills Program" mean a non-profit, residential, vocational life-skills program as defined in Subsection 13-53-102(5) that does not provide substance use disorder, or mental health treatment, and does not accept public funds.

~~(9)~~(11) "Mandatory" means education or treatment ordered, motivated, or supervised by the criminal justice system.

R523-4-4. Eligibility for Justice Certification.

(1) ~~[A]~~~~[H]~~ Any treatment program[s] or provider[s] desiring to deliver mandatory education, or treatment services shall apply for and achieve a justice certification.

(2) The Division shall accept applications for certification from licensed human services programs providing SUD and mental health services, sole practitioners and health care facilities.

(3) Applicants for certification shall:

(a) ~~[O]~~ obtain and maintain facility license from the Department of Human Services, Office of Licensing or a health care facility license issued by Utah Department of Health, or;

(b) submit proof, if a [S]sole practitioners, ~~[shall submit proof]~~ of:

(i) ~~[A]~~ an unencumbered license from the Utah Department of Occupational Licensing;

(ii) ~~[A]~~ adequate and appropriate malpractice insurance, and

(iii) ~~[A]~~ an ability to meet ~~[aH]~~ the requirements of Section R523-4-4 through Section R523-4-9.

(4) Justice certification is not required for the following programs and providers:

(a) ~~[H]~~ health care providers providing physical healthcare and limited behavioral health services and counseling;

(b) ~~[H]~~ health providers prescribing medication for physical health, substance use disorder or behavioral health treatment; and

(c) ~~[O]~~ opioid Treatment Programs engaged in opioid treatment of individuals with an opioid agonist treatment medication registered under 21 U.S.C. Sec. 823(g), licensed by the Office of Licensing, within the Department of Human Services, and certified by the Substance Abuse and Mental Health Services Administration in accordance with 42 C.F.R. 8.11;

(d) ~~[R]~~ recovery residences licensed by the Office of Licensing, within the Department of Human Services and in compliance with Rule R501-18;~~[and]~~

(e) ~~[P]~~ programs and Sole Practitioners working exclusively with adults with low criminogenic risk identified using a valid and reliable screening instrument consistent with the standards in Section R523-4-5;

[] a Residential, Vocational and Life Skills Program that is in compliance with rules established by the Department of Commerce; and

[] programs and sole practitioner that provide assessments only, and do not offer substance use disorder or mental health treatment services.

R523-4-5. Standards for Criminogenic Risk Screening.

(1) Prior to participating in any compelled education or treatment, adults shall complete a brief, validated criminogenic risk screen.

(2) The screen shall evaluate behaviors and characteristics known to predict re-offending including delinquency history, social history,~~[and]~~ attitudes~~[]~~ and behaviors about substance use, antisocial cognition, antisocial associates, family and marital relations, employment, and leisure and recreational activities~~[]~~.

(3) Screens shall be used to inform the probability of whether the adult is of low, moderate, or high risk to re-offend.

(4) Screens may be completed by partner agencies such as the courts, law enforcement or supervising entity and reported to treatment providers.

(5) Screens shall be included and documented in the adult's service records.

(6) When a screen identifies an adult with low criminogenic risk the provider shall:

(a) ~~[R]~~ report the results of the screen to the court;

(b) ~~[R]~~ refer the adult to non-criminal justice agencies for any desired treatment~~[]~~; or

(c) ~~[P]~~ provide services in a manner that limits exposure to adults with high criminogenic risk.

(7) When a screen identifies an adult with moderate or high criminogenic risk, the provider shall refer the adult to a justice certified provider or deliver services that meet the standards outlined in this rule.

R523-4-6. Standards for Substance Use and Mental Health Disorder Screening and Assessment.

(1) ~~[All adults]~~ Adults receiving justice certification services shall complete a mental health~~[/]~~ or substance use disorder screen or both, depending on the types of service provided by the certified agency, using~~[-an]~~ instrument~~[(s)]~~ that ~~[has]~~ have been evaluated and found reliable and valid by the scientific community.

(2) If the screening indicates a low probability for a substance use disorder or mental illness, the screening agency may recommend participation in an educational series.

(3) An assessment shall be completed if the screening indicates a need for further assessment for potential substance use and/or mental health disorders.

(4) An assessment shall be conducted prior to admission to a clinical treatment level of care.

(5) An initial assessments shall:

(a) ~~[D]~~ determine the adult's eligibility for treatment, provide the basis for a treatment plan, and establish a baseline measure for use in evaluating a patient's response to treatment~~[-]~~;

(b) ~~[I]~~ identify comorbid medical and psychiatric conditions and diagnosis and to determine how, when and where they will be addressed;

(c) ~~[I]~~ identify communicable diseases and address them as needed;

(d) ~~[E]~~ evaluate the adult's level of physical, psychological and social functioning or impairment;

(e) ~~[A]~~ assess the adult's access to social supports, family, friends, employment, housing, finances and legal problems; and

(f) ~~[D]~~ determine the adult's readiness to participate in treatment.

(6) Substance use disorder assessments shall address:

(a) ~~[R]~~ risk of acute psychosis, intoxication/withdrawal;

(b) ~~[B]~~ biomedical conditions or complications;

(c) ~~[E]~~ emotional, behavioral, or cognitive conditions;

(d) ~~[R]~~ readiness to change;

(e) ~~[R]~~ relapse, continued use or continued problem potential;

and

(f) ~~[R]~~ recovery environment.

(7) Individuals in need of treatment shall only be referred to agencies that are justice certified.

R523-4-7. Standards for Providers of an Educational Series.

(1) Applicants for certification shall:

(a) ~~[U]~~ use only educational series materials that meet the requirements for listing on Utah's registry of evidence-based practices identified in Section R523-9;

(b) ~~[E]~~ ensure ~~[all]~~ adults receiving justice certification services have received screens, and if indicated, assessed for criminogenic risk, SUD and mental illness prior to entry into services;

(c) ~~[P]~~ provide serves only to individuals that will benefit from an educational series;

(d) ~~[P]~~ provide accurate information designed to promote compliance with Utah laws;

(e) ~~[A]~~ address the risk factors related to substance use, and assist the adult in recognizing the harmful consequences of inappropriate substance use;

(f) ~~[T]~~ target adults whose problems and risk factors appear to be related to substance use, but do not appear to meet any diagnostic criteria for substance related disorders;

(g) ~~[M]~~ meet the requirements set forth in Subsection 62A-15-103~~(2)(h)~~ ~~[and Subsection R523-4-7(1)(b) through 1(f)]~~;

(h) ~~[M]~~ maintain records documenting the individual's attendance and course completion or failure to attend and/or complete;

(i) ~~[S]~~ serve adults and minors in separate groups;

(j) ~~[S]~~ serve individuals with low criminogenic risk in separate settings;

(k) ~~[C]~~ complete surveys and data requests as requested by the Division; and

(l) ~~[P]~~ provide communication with the court that includes appropriate clinical justification prior to referring individuals to higher levels of care.

R523-4-8. Standards for Community-Based Treatment.

(1) ~~[All]~~ Any substance use program~~[s]~~ licensed by the Department of Human Services Office of Licensing shall annually complete and submit the National Survey on Substance Abuse Treatment Survey (N-SSATS), and ~~[aH]~~ any mental health program~~[s]~~ shall annually complete and submit the National Mental Health Service Survey (N-MHSS).

(2) Certified programs, ~~[s]~~ Sole ~~[P]~~ Proprietors, and health clinics, providing behavioral health treatment shall:

(a) Conduct risk, need, and responsivity (RNR) screens and clinical assessments to determine effective supervision and treatment strategies;

(b) Base interventions on the person's level of criminogenic risk, and level of substance use disorder and/or mental illness;

(c) Ensure treatment is tailored to the individual and addresses:

(i) motivation,

(ii) problem solving,

(iii) skill building to improve cognitive, social, emotional, and coping skills, and

(iv) ~~[assist]~~ assistance in building prosocial supports and activities;

(d) Ensure service for SUD including assessment, treatment planning, continued stay and discharge planning are consistent with the most current ASAM Criteria;

(e) Include medication assisted treatment (MAT) in opioid use disorder and alcohol use disorder interventions;

(f) Provide random, unpredictable, and frequent drug testing in the supervision of persons with SUD, and ensure drug testing procedures and policies are compliant with Rule R523-15;

(g) Assist adults with housing, employment, vocational activities, and building social supports;

(h) Maintain a complete and accurate record of ~~[aH]~~ any clinical service~~[s]~~ for each individual served that contains the following information:

(i) any ~~[and all]~~ screenings and assessments completed,

(ii) any ~~[and all]~~ consent forms or required disclosures,

(iii) a comprehensive treatment plan,

(iv) progress notes,

(v) continuing recovery recommendations upon discharge, and

(vi) documentation of receipt for ~~[aH]~~ any payment~~[s]~~ made by participants as contributions to the cost of treatment; and

(i) Complete any training required by the Division as a condition of certification.

R523-4-9. Justice Certification Procedures.

(1) Providers seeking first-time approval or re-approval shall make application to the Division at least 60 days prior to delivering services.

NOTICES OF PROPOSED RULES

(2) Each provider seeking certification shall submit a completed and signed application and assurances form to the Division.

(3) ~~[All application]~~Application forms ~~[shall]will~~ be reviewed by the Division.

(4) The Division shall determine if the application is complete and demonstrates compliance with this rule.

(5) If the Division approves the application, and determines the program has met ~~[all]other~~ requirements ~~as deemed appropriate by the Division~~, the Division ~~[shall]will~~ provisionally certify the program for a period of up to one year.

(6) The Division shall notify ~~[all]~~applicants of the status of their applications in writing. The status of an application may be:

- (a) ~~[A]~~approved,
- (b) ~~[D]~~denied, or
- (c) ~~[R]~~requires additional information.

(7) A final certification ~~requirements~~ shall be completed within the one year provisional certification period of time, according to the procedures, ~~and processes~~ established by the Division.

(8) ~~Re-approval is required every 3 years from the date of the final certification, and must be submitted to the Division at least 30 days prior to the final certification date.~~ If an application for re-approval requires additional information, a ~~[previously certified]~~ program may continue to provide justice certified services for 30 days from the date of notification unless notified by the Division to cease and desist.

R523-4-10. Corrective Action.

(1) When the Division becomes aware that a provider is in violation of this rule the Division shall:

- (a) ~~[I]~~identify in writing the specific areas in which the provider is not in compliance; and
- (b) ~~[S]~~send written notice to the provider within 30 days after becoming aware of the violation.

(2) The provider shall submit a written plan for achieving compliance within 30 days of notification of noncompliance.

R523-4-11. Suspension ~~[a]~~And Revocation.

(1) The Division may suspend the approval of a provider when a provider fails to:

- (a) Respond in writing to areas of noncompliance identified in writing by the Division within the defined period;
- (b) Comply with corrective action as agreed upon in its written response to the Division; or
- (c) Allow the Division access to information or records necessary to determine the provider's compliance under this rule.

(2) The Division may revoke approval if a provider:

- (a) Continues to provide ~~[the]any~~ educational series after suspension;
- (b) Fails to comply with corrective action while under a suspension; or
- (c) Commits a second violation, which constitutes grounds for suspension when a previous violation resulted in a suspension during the last 24 months.

(3) The Division shall notify the Administrative Office of the Courts, the Utah Department of Corrections, the Department of Human Services, Office of Licensing, and county local authorities when a certification is suspended or revoked.

R523-4-12. Procedure for Denial, Suspension, or Revocation.

(1) If the Division has grounds for action under this rule and intends to deny, suspend or revoke approval of a provider, the Division shall notify the applicant or provider of the action to be taken.

(2) A notice to deny, suspend or revoke approval shall contain the reasons for the action, to include all statutory or rule violations, and a date when the action shall become effective.

(3) The provider may request a meeting with the Director or ~~[their]the~~ Director's designee within ten calendar days of receipt of notification.

(4) A request for a meeting for this purpose shall be in writing.

(5) Within ten days following the close of the meeting the Division shall inform the provider or applicant in writing of the decision of the Director or Designee of the Division.

R523-4-13. Posting of Certified Providers.

(1) The Division shall maintain and make public a list of ~~[all]~~certified educational ~~[or prevention]~~series, and treatment programs.

(2) The list ~~[shall]will~~ at a minimum include agency contact information, ~~and the service location address, and target population, and a brief description of services offered.~~

KEY: justice certification assessment standards, justice certification requirements, justice certification screening standards, justice certification treatment standards

Date of Enactment or Last Substantive Amendment: ~~[October 23, 2019]~~2020

Authorizing, and Implemented or Interpreted Law: 62A-15-103(2)(i); 62A-15-103(2)(j); 62A-15-103.5; 42 CFR Part 2

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New		
Utah Admin. Code Ref (R no.):	R523-22	Filing No. 52812

Agency Information

1. Department:	Human Services	
Agency:	Substance Abuse and Mental Health	
Room no.:	Second Floor	
Building:	Multi Agency State Office Building	
Street address:	195 N 1950 W	
City, state:	Salt Lake City, UT	
Mailing address:	195 N 1950 W	
City, state, zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:
Thom Dunford	801-538-4181	tdunford@utah.gov
Jonah Shaw	801-538-4219	jshaw@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
R523-22. Assertive Community Treatment Standards

<p>3. Purpose of the new rule or reason for the change:</p> <p>The purpose of this new rule is to set forth guidelines, procedures, and standards for the establishment of comprehensive Assertive Community Treatment (ACT) services that are funded by the Division of Substance Abuse and Mental Health (Division).</p>
<p>4. Summary of the new rule or change:</p> <p>This rule requires Local Mental Health Authorities that establish an ACT team to:</p> <ol style="list-style-type: none"> 1) be certified; 2) adhere to a direct service model as defined; 3) provide integrated mental health services as defined; 4) provide services through a multi-disciplinary team; 5) meet minimum fidelity standards set forth by certain evidence based programs; 6) measure fidelity to practice using certain assessment tools, and meet minimum scores to receive an initial certification; and 7) have a minimum level of professional staff.

Fiscal Information

<p>5. Aggregate anticipated cost or savings to:</p>
<p>A) State budget:</p> <p>The Division does not anticipate any savings to state budgets related to compliance with this rule, but there will be an administrative overhead cost withholding of 2% that is applied to the funds given to the Division as part of the budgetary allocation to help fund two ACT team that is regulated in this rule. The 2% administrative overhead cost withholding is a federal requirement under the state's agreement with Medicaid, and is a usual and customary reduction in all Cost Allocation Plans (CAP). The withholding for these funds is \$7,000. This is based on the \$350,000 in ongoing general funds allocated to the Division from the legislature. There is an estimable budgetary cost related to the one-time administrative process that the Division will need to engage in, for implementation of a Request For Proposal (RFP) for distributing funds to counties. The costs incurred come from the following anticipated onetime activities:</p> <p>a) the Division will create a medium sized group of 6 employees to create the RFP, consisting of 2 Program Administrator 3 (\$37.82 per hour), a Program Administrator 2 (\$35.05 per hour), a Program Manager (\$25.95 per hour), an Assistant Director (\$44.36 per hour), and an Administrative Services staff for budgeting (\$15.07 per hour). The RFP will take up to 20 hours to complete and be ready for issuance. The total salary cost per hour will be \$195.07 times the total number of hours 20 for an anticipated cost of \$3,921.40; and</p> <p>b) a small committee of 3 employees will be convened to review and award the funds tied to the RFPs consisting of a Program Administrator 3 (\$37.82 per hour), a Program Administrator 2 (\$35.05 per hour), and an Assistant Director (\$44.36 per hour) for a total hourly cost of</p>

<p>\$117.23. The Division will take up to 10 hours to complete this task for a total cost of \$1,173.30.</p> <p>This entire process is anticipated to incur a onetime cost to the state budget of \$3,921.40 + 1,172.30 = \$5,093.70. The Division will round up to \$5,094 as the total cost being reported for this rule, but this cost will be offset by the 2% CAP and will not have an effect on the Division's budget overall.</p> <p>Each year thereafter, the Division will engage in an annual monitoring and review visit of each ACT team to ensure fidelity to the model and the certification. It is estimated this activity will require the services of 1 Program Manager (\$26.01 per hour) a 1 Program Administrator 2 (\$36.05 per hour), and an Auditor 4 (\$29.75 per hour) for a total hourly cost of \$91.81. This activity should take no more than 40 hour to accomplish for a total of \$3,672.40 per year. The Division will report \$3,672 for this cost.</p>
<p>B) Local governments:</p> <p>The Division does not anticipate a budget savings for local governments to comply with this rule. As was mentioned above, the Division has taken a 2% administrative overhead cut from this funding which leaves the counties with \$343,000 in ongoing state general funds.</p> <p>This rule will have an effect on all counties that currently use or intend to use ACT teams to provide additional support to keep people in their own communities. The Division knows that all individuals who qualify for ACT services will have Medicaid, and Medicaid will be the only funding source available for county ACT teams. The Division estimates no additional compliance cost to counties that create or operate ACT teams under this rule, other than those costs that are currently associated with creating and maintaining an ACT team, which is estimated to be \$1,200,000 per year. This rule does not compel counties to use the ACT model of care, so those counties that create ACT teams after the effective date of this rule, will be doing so because they have decided that the use of ACT teams will improve services to their clients, and provided them with a cost effective way to use Medicaid funds for services.</p> <p>There will be a budgetary offset given to one of the counties that wishes to create an ACT team in their mental health services agency. The Division will be providing an ongoing grant of \$343,000 that will be offered through an RFP process.</p>
<p>C) Small businesses ("small business" means a business employing 1-49 persons):</p> <p>The Division does not anticipate that small businesses will be affected by this rule. There is not funding from the Division to help establish ACT teams outside of the county based Local Authority Mental Health system, and there is no regulator authority granted to the Division to enforce this rule on non-publicly funded entities.</p>

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

The Division does not anticipate that no-small businesses will be affected by this rule. There is no funding from the Division to help establish ACT teams outside of the county based Local Authority Mental Health system, and there is no regulator authority granted to the Division to enforce this rule on non-publicly funded entities.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The Division does not anticipate that persons other than small businesses, non-small businesses, state, or local government entities will participate in providing service through the ACT teams created by this rule, and there is no regulatory authority to enforce this rule on those entities if they did engage in such an endeavor.

F) Compliance costs for affected persons:

Persons receiving services through the ACT teams created in this rule will not be charged for receiving those services other than what would be normally considered a customary co-payment when receiving any other behavioral health service, based on their funding source. Most will not be employed, so no payments will be required for ACT services.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$5,094	\$3,672	\$3,672
Local Governments	\$1,200,00	\$1,200,000	\$1,200,000
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$1,205,094	\$1,203,672	\$1,203,672
Fiscal Benefits			
State Government	\$7,000	\$7,000	\$7,000
Local Governments	\$343,000	\$343,000	\$343,000

Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$350,000	\$350,000	\$350,000
Net Fiscal Benefits	-\$855,094	-\$853,672	-\$853,672

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Human Services, Ann Williamson, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

The Department of Human Services does not anticipate any fiscal impacts on businesses as a result of compliance requirements in this rule, which only affects the publicly funded, county based Local Authority Mental Health system.

B) Name and title of department head commenting on the fiscal impacts:

Ann Williamson, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 62A-15-118		
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/31/2020

10. This rule change MAY become effective on: 08/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the

date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Doug Thomas, Director	Date:	04/29/2020
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**R523. Human Services, Substance Abuse and Mental Health.
R523-22. Assertive Community Treatment Standards.**

R523-22-1. Authority.

(1) This rule establishes guidelines, procedures and standards for the establishment of Assertive Community Treatment (ACT) as directed in Section 62A-15-1702.

R523-22-2. Purpose.

(1) This rule is enacted for the purpose of promoting the availability of comprehensive ACT services by:

(a) Creating minimal standards of certification, care and practice for ACT teams; and

(b) Outlining the responsibilities of ACT teams including Evidence-Based Practice (EBP) models, and clients to team ratios.

R523-22-3. Definitions.

(1) Assertive Community Treatment (ACT) is known as a "hospital without walls". ACT is a person-centered service delivery model that provides an integrated set of evidence-based treatments, rehabilitative services, case management, and support services that are delivered by a mobile, multidisciplinary mental health treatment team. ACT teams serve clients who have a serious mental illness that greatly impairs their functioning in the community. Priority is given to clients with schizophrenia, other psychotic disorders, and mood disorders including bipolar disorder or major depression.

R523-22-4. General Provisions and Minimum Standards of Care.

(1) An ACT team must adhere to fidelity as outlined in Section R523-22-5. The ACT team approach is based on treatment, rehabilitation and support.

(2) An ACT team will administer direct services as follows:

(a) Services will promote a sense of hope, and include a full range of clinical treatment, psychosocial rehabilitation, and community support services designed to promote recovery by improving psychiatric symptoms, preventing relapse, teaching skills, providing direct assistance, and securing community resources necessary for successful functioning in the community;

(b) Assertive outreach will be provided in the home, community, or wherever necessary to deliver services;

(c) Frequent contacts are associated with better outcomes for clients, therefore, clients shall receive as much service time, and as many contacts as needed adhering to the following:

(i) scheduled contacts will be purposeful, and designed to carry out interventions in the service plan, or to address critical needs; and

(ii) the number of contacts, and length of time spent with a client will vary on a day to day basis, based on the client's need and circumstances;

(d) Engaging and retaining clients in treatment is a high priority; therefore, clients will be engaged using a range of outreach strategies tailored to individual needs and preferences. Clients will receive a full explanation of the array of available services. Client choice regarding participation in services will be taken into account when developing intervention strategies;

(e) Services will be continuously measured to ensure that individualized outcomes in the service plan are achieved;

(f) An ACT team will broaden or refine evidence-based services that are consistent with current research, when appropriate;

(g) Services will be available 7 days per week, 24 hours per day. This requirement may be accomplished by providing split staff assignment schedules to achieve needed coverage;

(h) The primary responsibility of crisis response encompasses first contact for all crises, including after-hours crisis calls for clients. A continuous, and direct after-hours on-call system will be provided with staff that are experienced in the ACT program, and skilled in crisis intervention procedures; and

(i) Crisis response services will be rapid for any emergency, and may be provided both in person and by telephone. This requirement may be accomplished through the use of telehealth, but only with approval from the Division of Substance Abuse and Mental Health (division).

(3) An ACT team will administer integrated services as follows:

(a) Provide service through a multi-disciplinary team approach including all roles as defined through the Substance Abuse and Mental Health Services Administration (SAMHSA);

(b) Understanding, developing and working with each client's support system is an important part of treatment and recovery support that furthers integration into the community. Service provision will include persistent attempts to engage with the client's family and support network including formal and informal supports, and include them in the treatment and rehabilitative process with the client's consent. All staff must understand and adhere to confidentiality, HIPAA, 42 CFR part 2, client rights and informed choice as well as providing culturally responsive care;

(c) Assist the client to develop and maintain recovery supports such as housing, employment, finances, transportation, and basic life skill;

(d) Coordinate with other systems of care, and with hospital admissions and hospital discharges in order to ensure continuity and coordination of services;

(e) Provide support and advocacy services; and

(f) Ensure continuity and coordination of care for clients by working closely with local hospitals to maintain clients in the community whenever safely possible.

(4) An ACT team will administer services with the low client to team ratio that does not exceed more than 6 new clients admitted per month, for a total of 100 clients with no more than a 10 clients to 1 staff ratio.

R523-22-5. Certification of ACT Teams.

(1) The following requirements will be met in order for a behavioral health provider to receive State certification of an ACT team:

NOTICES OF PROPOSED RULES

(a) Meet the minimum fidelity criteria described in SAMHSA Assertive Community Treatment Evidence-Based Practices tool kit. Any exemptions to this requirement must be pre-approved by the division;

(b) The Dartmouth Assertive Community Treatment Scale (DACTS), or the Tool for the Measurement of ACT (TMACT) is used to measure its ACT team fidelity to the EBP model;

(c) After initial certification of the ACT team, the division may request a new fidelity review, and all teams will have regular fidelity reviews, at a minimum of annually;

(d) For initial certification, each ACT team must achieve an overall average fidelity score that meets the minimum average overall fidelity score on the DACTS or TMACT as determined by the instruments, and the division.

(e) Continuing certification requires each ACT team to achieve and maintain a minimum average overall fidelity score within one year of initial certification, and have plans, and show progress toward greater fidelity; and

(f) An ACT team will be staffed and supervised by individuals who meet the qualifications found in the Mental Health Professional Practice Act, Section 58-60.

KEY: assertive community treatment, assertive community treatment standards, ACT teams
Date of Enactment or Last Substantive Amendment: 2020
Authorizing, and Implemented or Interpreted Law: 62A-15-118

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R590-102	Filing No. 52828

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	3110	
Building:	State Office Building	
Street address:	450 N State St.	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 146901	
City, state, zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-538-3803	sgooch@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
R590-102. Insurance Department Fee Payment Rule
3. Purpose of the new rule or reason for the change:

The rule is being changed to better meet the standards of the Rulewriting Manual for Utah.

4. Summary of the new rule or change:

The majority of changes in this amendment are clerical in nature and are done to meet the standards of the Rulewriting Manual for Utah. They are being made to make the language in the rule more clear and easy to understand. A definition for "non-electronic payment" is also added to this rule, because such a payment was previously included in this rule but was not defined. Updated severability language is also included.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature and have no fiscal impact on any party.

B) Local governments:

There is no anticipated cost or savings to local governments. The changes are largely clerical in nature and have no fiscal impact on any party.

C) Small businesses ("small business" means a business employing 1-49 persons):

There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature and have no fiscal impact on any party.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature and have no fiscal impact on any party.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature and have no fiscal impact on any party.

F) Compliance costs for affected persons:

There are no compliance costs for any affected persons. The changes are largely clerical in nature and have no compliance requirements for any party.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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

H) Department head approval of regulatory impact analysis:

The Commissioner of the Insurance Department, Todd E. Kiser, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

The above analysis represents the Insurance Department's best estimate of the fiscal impact that this rule may have on businesses.

B) Name and title of department head commenting on the fiscal impacts:

Todd E. Kiser, Commissioner

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Subsection 31A-3-103(3)		
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/31/2020

10. This rule change MAY become effective on: 08/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer 1	Date:	06/10/2020
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R590. Insurance, Administration.

R590-102. Insurance Department Fee Payment Rule.

R590-102-1. Authority.

This rule is adopted pursuant to Subsection 31A-3-103(3), which requires the commissioner to publish the schedule of fees approved by the legislature and to establish deadlines for payment of each of the various fees.

R590-102-2. Purpose and Scope.

- (1) The purposes of this rule are to:
 - (a) publish the schedule of fees approved by the legislature;
 - (b) establish fee deadlines; and
 - (c) disclose this information to licensees and the public.
- (2) The rule applies to:
 - (a) ~~any~~ any person[s] engaged in the business of insurance in Utah;
 - (b) ~~any~~ any person holding an insurance license[es] in Utah;
 - (c) any applicant[s] for a license[s], registration[s], certificate[s], or other similar filing[s]; and
 - (d) ~~any~~ any person[s] requesting any service[s] provided by the department for which a fee is required.

R590-102-3. Definitions.

In addition to the definitions in Title 31A, Insurance Code, the following definitions shall apply for the purposes of this rule:

NOTICES OF PROPOSED RULES

(1) "Admitted insurer[s]" includes[-] fraternal, health, health maintenance organization, life, limited health plan, motor club, non-profit health service, property[-] and casualty, title insurer[s], and a prescription drug plan.

(2) "Agency" means:

(a) a person, other than an individual, including a sole proprietorship by which a natural person does business under an assumed name; and

(b) an insurance organization required to be licensed under S[ubs]ections 31A-23a-301, 31A-25-207, and 31A-26-209.

(3) "Captive insurer" includes association captive, branch captive, industrial insured captive, pure captive, sponsored captive, and special purpose financial captive.

(4) "Deadline" means the final date or time:

(a) imposed by:

(i) statute;

(ii) rule; or

(iii) order[~~;~~]; and

(b) by which:

(i) a payment must be received by the department without incurring a penalty[ies] for late payment or non-payment; or

(ii) required information must be received by the department without incurring a penalty[ies] for late receipt or non-receipt.

(5) "Fee" means an amount set by the commissioner, by statute, or by rule, and approved by the legislature for a license[s], registration[s], certificate[s], ~~and~~ or other filing[s ~~and~~] or service[s] provided by the Insurance Department.

(6) "Full-line agency" includes a producer, consultant, independent adjuster, managing general agent, public adjuster, reinsurance intermediary broker, and third[-]party administrator.

(7) "Full-line individual" includes a producer, consultant, independent adjuster, managing general agent, public adjuster, reinsurance intermediary broker, and third[-]party administrator.

(8) "Limited-line agency" includes a bail bond producer and a limited-line producer.

(9) "Limited-line individual" includes a bail bond agent, limited-lines producer, and customer service representative.

(10) "Other organization[s]" includes[-] a home warranty, joint underwriter, purchasing group, rate service organization, risk retention group, service contract provider, and health discount program.

(11) "~~Paper~~Non-electronic application" means an application that must be manually entered into the department's database because the application was submitted by paper, facsimile, or email when the department has provided an electronic application process and stated the electronic process is the preferred process for receiving an application.

(12) "~~Paper~~Non-electronic filing" means a filing that must be manually entered into the department's database because the filing was submitted by paper, facsimile, or email when the department has provided an electronic filing process and stated the electronic process is the preferred process for receiving a filing.

(13) "Non-electronic payment" means a payment that must be manually entered by the department because the payment was submitted by check, money order, or other physical medium when the department has provided an electronic payment process and stated the electronic process is the preferred process for receiving a payment.

(14) "Received by the department" means:

(a) the date delivered to and stamped received by the department, if delivered in person;

(b) the postmark date, if delivered by mail;

(c) the delivery service's postmark date or pick-up date, if delivered by a delivery service; or

(d) the received date recorded on an item delivered, if delivered by:

(i) facsimile;

(ii) email; or

(iii) another electronic method; or

(e) a date specified in:

(i) a statute;

(ii) a rule; or

(iii) an order.

R590-102-4. General Instructions.

(1) Any fee payable to the department not included in S[ubs]ections R590-102-5 through R590-102-24[~~;~~] shall be due when service is requested, if applicable, otherwise by the due date on the invoice.

(2) Payment.

(a) A non-electronic payment processing fee will be added to a payment when the department has provided an electronic payment process and stated the electronic process is the preferred process for receiving a payment.

(b) Check.

(i) [~~C~~]A check[s] shall be made payable to the Utah Insurance Department.

(ii) A check that is dishonored in the process of the collection will not constitute payment of the fee for which it was issued and any action taken based on the payment will be voided.

(iii) [~~L~~]Any late fee[s ~~and~~] or other penalty[ies,] resulting from the voided action will apply until proper payment is made.

(iv) A check payment that is dishonored is a violation of this rule.

(c) Cash. The department is not responsible for un-receipted cash that is lost or misdelivered.

(d) Electronic.

(i) Credit [~~C~~]card.

(A) [~~C~~]A credit card[s] may be used to pay any fee due to the department.

(B) [~~C~~]A credit card payment[s] that [~~are~~]is dishonored will not constitute payment of the fee and any action taken based on the payment will be voided.

(C) [~~L~~]A late fee[s ~~and~~] or other penalty[ies,] resulting from the voided action[~~;~~] will apply until proper payment is made.

(D) A credit card payment that is dishonored is a violation of this rule.

(ii) Automated clearinghouse (ACH).

(A) [~~P~~]Any payer[s] or purchaser[s] desiring to use this method must contact the department for the proper routing and transit information.

(B) [~~P~~]A payment[s] that [~~are~~]is made in error to another agency or that [~~are~~]is not deposited into the department's account will not constitute payment of the fee and any action taken based on the payment will be voided.

(C) [~~L~~]Any late fee[s ~~and~~] or other penalty[ies] resulting from the voided action will apply until proper payment is made.

(D) An ACH payment that is dishonored is a violation of this rule.

(3) Retaliation. The fees enumerated in this rule are not subject to retaliation in accordance with Section 31A-3-401 if other states or countries impose higher fees.

(4) Refunds.

(a) [~~All~~]Fees enumerated in this rule are non-refundable.

(b) Overpayments of fees are refundable.

(c) ~~[R]~~A request[s] for a return of an overpayment[s] must be submitted in writing.

(5) A non-electronic processing fee described in Section R590-102-21 will be assessed for a particular service if the department has established an electronic process for that service~~[- See R590-102-21].~~

(6) Any annual or biennial license fee, service fee, or assessment described in this rule is for services the department will provide during the year and is paid in advance of providing the services.

(7) An electronic commerce dedicated fee described in Section R590-102-23 may be added to the fees required by Sections R590-102-5 through R590-102-20.

R590-102-5. Admitted Insurer and Prescription Drug Plan Fees.

(1) Annual license fees:

(a) certificate of authority~~[-]~~ initial license application~~[-]~~, due with license application~~[-]~~ -\$1,000;

(b) certificate of authority~~[-]~~ renewal~~[-]~~, due by the due date on the invoice~~[-]~~ -\$300;

(c) certificate of authority~~[-]~~ late renewal~~[-]~~, due for any renewal paid after the date on the invoice~~[-]~~ -\$350; and

(d) certificate of authority~~[-]~~ reinstatement~~[-]~~, due with application for reinstatement~~[-]~~ -\$1,000.

(2) Other license fees:

(a) certificate of authority~~[-]~~ amendments~~[-]~~, due with request for amendment~~[-]~~ -\$250;

(b)(i) Form A~~[-]~~ application for merger, acquisition, or change of control, due with filing~~[-]~~ -\$2,000[-]; and

(ii) Expenses incurred for consultant services necessary to evaluate a Form A will be charged to the applicant and due by the due date on the invoice;

(c) redomestication filing~~[-]~~, due with filing~~[-]~~ -\$2,000; and

(d) application for organizational permit for mutual insurer to solicit applications for qualifying insurance policies or subscriptions for mutual bonds or contribution notes~~[-]~~, due with application~~[-]~~ -\$1,000.

(3) The annual ~~[initial or annual renewal]~~ license fee includes the following licensing services for which no additional fee is required:

(a) filing annual statement and report of Utah business~~[-]~~, due annually on March 1;

(b) filing holding company registration statement~~[-]~~, Form B;

(c) filing application for material transactions between affiliated companies~~[-]~~, Form D; and

(d) applications for:

~~(i) stock solicitation permit[-];~~

~~(ii) public offering filing, but not an SEC filing;~~

~~(iii) an SEC filing;~~

~~(iv) private placement offering; and~~

~~(v) [application for] individual license to solicit in accordance with the stock solicitation permit.~~

(4) Annual service fee:

(a) Due ~~[annually]~~ by the due date on the invoice.

(b) A prescription drug plan is exempted from payment of a service fee.

(c) The fee is based on the Utah premium as shown in the ~~[latest] company's prior year annual statement on file with the National Association of Insurance Commissioners and the department[- Fee calculation example: the 2004 annual service fee calculation will use the Utah premium shown in the December 31, 2003 annual statement].~~

(d) Fee schedule:

(i) \$0 premium volume~~[-]~~ no service fee;

(ii) more than \$0~~[zero]~~ but less than \$1 million in premium volume~~[-]~~ -\$700;

(iii) \$1 million but less than \$3 million in premium volume~~[-]~~ -\$1,100;

(iv) \$3 million but less than \$6 million in premium volume~~[-]~~ -\$1,550;

(v) \$6 million but less than \$11 million in premium volume~~[-]~~ -\$2,100;

(vi) \$11 million but less than \$15 million in premium volume~~[-]~~ -\$2,750;

(vii) \$15 million but less than \$20 million in premium volume~~[-]~~ -\$3,500; and

(viii) \$20 million or more in premium volume~~[-]~~ -\$4,350.

(e) The annual service fee includes the following services for which no additional fee is required:

(i) filing of amendments to articles of incorporation, charter, or bylaws;

(ii) filing of power of attorney;

(iii) filing of registered agent;

(iv) affixing commissioner's seal and certifying any paper;

(v) filing of authorization to appoint and remove agents;

(vi) initial filing of producer~~[-]~~ or agency appointment with an insurer~~[- initial];~~

~~(vii) [filing] termination of producer[-] or agency appointment with an insurer[- termination];~~

~~(viii) report filing[- all lines of insurance];~~

~~(ix) rate filing[- all lines of insurance]; and~~

~~(x) form filing[- all lines of insurance].~~

~~(f) [The annual service fee is for services that the department will provide for an admitted insurer during the year. The fee is paid in advance of providing the services.~~

~~(5) Other fees:~~

~~(a) e-commerce fee: see R590-102-23; and~~

~~(b) insurer examination costs reimbursements from examined insurers due by due date on the invoice: actual costs plus overhead expense] Actual costs plus overhead expenses incurred during an examination of an insurer shall be paid by the examined insurer by the due date on the invoice.~~

R590-102-6. Foreign Surplus Lines Insurer, Accredited Reinsurer, Certified Reinsurer, Trusteed Reinsurer, and Employee Welfare Fund Administrative/Service Fees.

(1) Annual license fees:

~~(a) initial [Initial Fee -], due with application[-] -\$1,000[-];~~

~~(2) [b] [Annual Fee -] renewal, due [annually] by the due date on the invoice[-] -\$500;~~

~~(3) [c] [Late annual payment -] late renewal, due for any [annual -] renewal payment paid after the due date on the invoice[-] -\$550; and~~

~~(4) [d] [R] reinstatement[-], due with application[-] -\$1,000.~~

~~(5) [2] The annual license fee includes the following services for which no additional fee is required [and is paid in advance]:~~

~~(a) filing of power of attorney; and~~

~~(b) filing of registered agent[-]~~

~~(6) E-commerce fee: see R590-102-23].~~

R590-102-7. Other Organization Fees.

(1) Annual license fees:

(a) initial~~[-]~~, due with application~~[-]~~ -\$250;

(b) renewal~~[-]~~, due ~~[annually]~~ by the due date on the invoice~~[-]~~ -\$200;

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(c) late renewal[—], due for any renewal paid after the due date on the invoice[+] \$250; and

(d) reinstatement[—], due with application for reinstatement[+] \$250[+];

(e) The annual other organization initial or renewal fee includes the risk retention group annual statement filing[—], due annually on March 1.

(2) Annual service fee[—], due [~~annually~~] by the due date on the invoice[+] \$200.

(a) The annual service fee includes the following services for which no additional fee is required:

- (i) filing of power of attorney;
(ii) filing of registered agent; and
(iii) rate, form, report or service contract filing[—]

~~(b) The annual service fee is for services that the department will provide during the year. The fee is paid in advance of providing the services.~~

~~(3) E-commerce fee: see R590-102-23].~~

R590-102-8. Captive Insurer Fees.

(1) Initial license application[—], due with license application[+] \$200.

(2) ~~[+]Actual costs incurred by the department during the initial license application review[—due] shall be paid by the captive insurer by the due date on the invoice[+ actual costs incurred by the department to review the application].~~

(3) Annual license fees:

- (a) initial[—], due by the due date on the invoice[+] \$5,000;
(b) renewal[—], due by the due date on the invoice[+] \$5,000;
(c) late renewal[—], due for any renewal paid after the due date on the invoice[+] \$5,050; and

(d) reinstatement[—], due with application for reinstatement[+] \$5,050.

(4) ~~Other fees:~~

- ~~(a) e-commerce fee: see R590-102-23; and
(b) examination costs reimbursements from examined captive insurers due by due date on the invoice: actual costs plus overhead expense]Actual costs plus overhead expenses incurred during an examination of a captive insurer shall be paid by the examined captive insurer by the due date on the invoice.~~

R590-102-9. Captive Cell Fees.

(1) Initial license application[—], due with license application[+] \$200.

(2) ~~[+]Actual costs incurred by the department during the initial license application review[—due] shall be paid by the captive insurer by the due date on the invoice[+ actual costs incurred by the department to review the application].~~

(3) Annual license fees:

- (a) initial[—], due by the due date on the invoice[+] \$1,000;
(b) renewal[—], due by the due date on the invoice[+] \$1,000;

and

(c) late renewal[—], due for any renewal paid after the due date on the invoice[+] \$1,050.

R590-102-10. Life Settlement Provider Fees.

(1) Annual license fees:

- (a) initial[—], due with application[+] \$1,000;
(b) renewal[—], due by the due date on the invoice[+] \$300;
(c) late renewal[—], due for any renewal paid after the due date on the invoice[+] \$350; and

(d) reinstatement[—], due with reinstatement application[+] \$1,000.

(2) Annual service fee[—], due by the due date on the invoice[+] \$600.

(a) The annual service fee includes the following service for which no additional fee is required: [—]rate, form, report or service contract filing[—]

~~(b) The annual service fee is for services that the department will provide during the year. The fee is paid in advance of providing the services].~~

(3) ~~Other fees:~~

- ~~(a) e-commerce fee: see R590-102-23; and
(b) examination costs reimbursements from examined viatical settlement providers due by due date on the invoice: actual costs plus overhead expense]Actual costs plus overhead expenses incurred during an examination of a viatical settlement provider shall be paid by the examined viatical settlement provider by the due date on the invoice.~~

R590-102-11. Professional Employer Organization (PEO) Fees.

(1) Annual license fees:

- (a) PEO[—] not certified by an assurance organization:
(i) initial[—], due with application[+] \$2,000;
(ii) renewal[—], due by the due date on the invoice[+] \$2,000;
(iii) late renewal[—], due for any renewal paid after the due date on the invoice[+] \$2,050; and
(iv) reinstatement[—], due with reinstatement application[+] \$2,050[+];

(b) PEO[—] certified by an assurance organization:

- (i) initial[—], due with application[+] \$2,000;
(ii) renewal[—], due by the due date on the invoice[+] \$1,000;
(iii) late renewal[—], due for any renewal paid after the due date on the invoice[+] \$1,050; and
(iv) reinstatement[—], due with reinstatement application[+] \$1,050[+];

(c) PEO[—] small operator:

- (i) initial[—], due with application[+] \$2,000;
(ii) renewal[—], due by the due date on the invoice[+] \$1,000;
(iii) late renewal[—], due for any renewal paid after the due date on the invoice[+] \$1,050; and
(iv) reinstatement[—], due with reinstatement application[+] \$1,050[+]

~~(5) E-commerce fee: see R590-102-23].~~

R590-102-12. Individual Resident and Non-Resident License Fees, Other Than Individual Navigators.

(1) Biennial [~~resident and non-resident~~]full-line [~~individual initial license or renewal~~]license fees:

- (a) initial[~~license fee~~—], due with application[+] \$70[+];
(b) renewal[~~license fee~~] if renewed prior to license expiration date[—], due with renewal application[+] \$70; and
(c) reinstatement[~~license fee~~] if inactive license is reinstated within one year following the license expiration date[—], due with application for reinstatement[+] \$120.

(2) Biennial [~~resident and non-resident~~]limited-line [~~individual initial or renewal~~]license fees:

- (a) initial[~~license fee~~—], due with application[+] \$45;
(b) renewal[~~license fee~~] if renewed prior to license expiration date[—], due with renewal application[+] \$45; and
(c) reinstatement[~~license fee~~] if inactive license is reinstated within one year following the license expiration date[—], due with application for reinstatement[+] \$95.

(3) Other ~~[license]~~ fees:

~~(a) addition of producer classification or line of authority to individual producer license[—], due with request for additional classification or line of authority[+] - \$25; and~~

~~(b) title insurance product or service approval for dual licensed title licensee form filing, due with filing - \$25.~~

(4) The biennial ~~[initial and renewal full-line producer and limited-line producer-]license~~ fee includes the following services for which no additional fee is required:

(a) issuance of letter of certification;

(b) issuance of letter of clearance;

(c) issuance of duplicate license; and

(d) individual continuing education services[—];

~~(5) The biennial initial and renewal individual license fee includes services the department will provide during the year. The fee is paid in advance of providing the services.~~

~~(6) Other fees:~~

~~(a) e-commerce fee: see R590-102-23; and~~

~~(b) title insurance product or service approval for dual licensed title licensee form filing fee - due with filing: \$25.~~

R590-102-13. Individual Navigator Fees.

(1) ~~[Individual navigator per annual license period]~~Annual license fees:

(a) initial~~[-license fee-]~~, due with application[+]- \$35;

(b) renewal~~[-license fee]~~ if renewed prior to license expiration date[-], due with renewal application[+]- \$35; and

(c) reinstatement~~[-license fee]~~ if inactive license is reinstated within one year following the license expiration date[-], due with application for reinstatement[+]- \$60.

(2) The annual ~~[initial and renewal individual-]license~~ fee includes the following services for which no additional fee is required:

(a) issuance of letter of certification;

(b) issuance of letter of clearance;

(c) issuance of duplicate license; and

(d) individual continuing education services[—];

~~(3) The annual initial and renewal individual license fee includes will provide during the year. The fee is paid in advance of providing the services.~~

~~(4) E-commerce fee: see R590-102-23].~~

R590-102-14. Agency License Fees, Other than Navigator or Bail Bond Agencies.

(1) Biennial resident and non-resident ~~full-line agency and limited-line agency license fees~~~~[agency initial or renewal license for a full-line agency and for a limited-line agency]:~~

(a) initial~~[-license fee-]~~, due with application[+]- \$75;

(b) renewal~~[-license fee]~~ if renewed prior to license expiration date[-], due with renewal application[+]- \$75; and

(c) reinstatement~~[-license fee]~~ if inactive license is reinstated within one year following the license expiration date[-], due with application for reinstatement[+]- \$125[+].

~~(d)2~~ **Biennial resident title agency license fees:**

~~(i)1a~~ initial~~[-license fee-]~~, due with application[+]- \$100;

~~(ii)1b~~ renewal~~[-license fee]~~, if renewed prior to license expiration date[-], due with renewal application[+]- \$100[+]; and

~~(iii)1c~~ reinstatement~~[-license fee]~~, if inactive license is reinstated within one year following the license ~~[inactivation]expiration~~ date[-], due with application for reinstatement[+]- \$150.

~~(2)3~~ ~~[Other license fees: a]~~ Addition of producer classification or line of authority to agency license[-], due with request for additional classification or line of authority[+]- \$25.

~~(3)4~~ The biennial ~~[initial and renewal agency-]license~~ fee includes the following services for which no additional fee is required:

(a) issuance of letter of certification;

(b) issuance of letter of clearance;

(c) issuance of duplicate license;

(d) initial filing of producer designation to agency license~~[-initial];~~

(e) ~~[filing-]termination~~ of producer designation to agency license~~[-termination];~~

(f) filing of amendment to agency license; and

(g) filing of power of attorney[—];

~~(4) E-commerce fee: see R590-102-23].~~

R590-102-15. Navigator Agency Fees.

(1) ~~[Navigator agency per annual license period]~~Annual license fees:

(a) initial~~[-license fee-]~~, due with application[+]- \$40;

(b) renewal~~[-license fee]~~ if renewed prior to license expiration date[-], due with renewal application[+]- \$40; and

(c) reinstatement~~[-license fee]~~ if inactive license is reinstated within one year following the license expiration date[-], due with application for reinstatement[+]- \$65.

(2) The annual ~~[initial and renewal agency-]license~~ fee includes the following services for which no additional fee is required:

(a) issuance of letter of certification;

(b) issuance of letter of clearance;

(c) issuance of duplicate license;

(d) initial filing of producer designation to agency license~~[-initial];~~

(e) ~~[filing-]termination~~ of producer designation to agency license~~[-termination];~~

(f) filing of amendment to agency license; and

(g) filing of power of attorney[—];

~~(3) E-commerce fee: see R590-102-23].~~

R590-102-16. Bail Bond Agency Fees.

(1) Annual ~~[bail bond agency per annual-]license~~ fees~~[period]:~~

(a) initial~~[-license fee-]~~, due with application[+]- \$250;

(b) renewal~~[-license fee]~~ if renewed prior to license expiration date[-], due with renewal application[+]- \$250; and

(c) reinstatement~~[-license fee]~~ if inactive license is reinstated within one year following the license expiration date[-], due with application for reinstatement[+]- \$300.

(2) The annual ~~[initial and renewal agency-]license~~ fee includes the following services for which no additional fee is required:

(a) issuance of letter of certification;

(b) issuance of letter of clearance;

(c) issuance of duplicate license;

(d) initial filing of producer designation to agency license~~[-initial];~~

(e) ~~[filing-]termination~~ of producer designation to agency license~~[-termination];~~

(f) filing of amendment to agency license; and

(g) filing of power of attorney[—];

~~(3) E-commerce fee: see R590-102-23].~~

R590-102-17. Continuing Care Provider Fees.

(1) Annual registration fee:

(a) initial[-], due with application[+]- \$6,900;

(b) renewal[-], due by the due date on the invoice[+]- \$6,900;

and

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- (c) reinstatement~~[-]~~, due with application for reinstatement~~[-]~~ ~~[-]~~ \$6,950.
- (2) ~~[(D)]~~ Annual disclosure statement fee:
 - (a) initial~~[-]~~, due with application~~[-]~~ ~~[-]~~ \$600; and
 - (b) renewal~~[-]~~, due with annual renewal disclosure statement~~[-]~~ ~~[-]~~ \$600;
 - ~~_____ (3) E-commerce fee: see R590-102-23].~~

R590-102-18. Pharmacy Benefit Manager Licensing Fees.

- (1) Annual ~~[pharmacy benefit manager]~~ license fee:
 - (a) initial~~[-]~~ ~~license fee~~ ~~[-]~~, due ~~[on the date of the]~~ with application~~[-]~~ ~~[-]~~ \$1,000;
 - (b) renewal~~[-]~~, due by the due date on the invoice~~[-]~~ ~~with renewal application~~ ~~[-]~~ \$1,000;
 - (c) late renewal~~[-]~~, due for any renewal paid after the due date on the invoice~~[-]~~ ~~[-]~~ \$1,050; and
 - (d) reinstatement~~[-]~~, due with application for reinstatement~~[on the date of application]~~ ~~[-]~~ \$1,000;
 - ~~_____ (2) E-commerce fee: see R590-102-23].~~

R590-102-19. Guaranteed Asset Protection Provider Fees.

- (1) Annual ~~[guaranteed asset protection]~~ provider registration fee~~[-]~~ ~~per annual period~~:
 - (a) initial~~[-]~~, due with application~~[-]~~ ~~[-]~~ \$1,000;
 - (b) renewal~~[-]~~, due by the due date on the invoice~~[-]~~ ~~[-]~~ \$1,000; and
 - (c) late renewal~~[-]~~, due for any renewal paid after the due date on the invoice~~[-]~~ ~~[-]~~ \$1,050.
- (2) Annual ~~[guaranteed asset protection]~~ retail seller assessment~~[-]~~ ~~per annual period~~:
 - (a) annual assessment~~[-]~~, due by the due date on the invoice~~[-]~~ ~~[-]~~ \$50; and
 - (b) late fee~~[-]~~, due for any retail seller assessment fee paid after the due date on the invoice~~[-]~~ ~~[-]~~ \$50.

R590-102-20. Continuing Education Fees.

- (1) Annual ~~[continuing education provider]~~ license fee~~[-]~~ ~~s per annual license period~~:
 - (a) initial~~[-]~~ ~~license fee~~ ~~[-]~~, due with application~~[-]~~ ~~[-]~~ \$250;
 - (b) renewal~~[-]~~ ~~license fee~~ ~~[-]~~ if renewed prior to license expiration date~~[-]~~, due with renewal application~~[-]~~ ~~[-]~~ \$250; and
 - (c) reinstatement~~[-]~~ ~~license fee~~ ~~[-]~~ if inactive license is reinstated within one year following the license expiration date~~[-]~~, due with application for reinstatement~~[-]~~ ~~[-]~~ \$300.
- (2) Continuing education course post-approval fee~~[-]~~, due with request for approval~~[-]~~ ~~[-]~~ \$5 per credit hour, minimum fee \$25.

R590-102-21. Non-~~[e]~~Electronic Processing or Payment Fees.

- (1) Non-electronic filing processing fee~~[-]~~ ~~[a]~~. Assessed on a non-electronic filing~~[-]~~ ~~when the department has provided an electronic filing process and stated the electronic process is the preferred process for receiving a filing~~ ~~[-]~~, due with each ~~[paper]~~ non-electronic filing or by the due date on the invoice~~[-]~~ ~~[-]~~ \$5.
- (2) Non-electronic application processing fee~~[-]~~ ~~[a]~~. Assessed on a non-electronic application~~[-]~~ ~~when the department has provided an electronic application process and stated the electronic process is the preferred process for receiving an application~~ ~~[-]~~, due with each ~~[paper]~~ non-electronic application or by the due date on the invoice~~[-]~~ ~~[-]~~ \$25.
- (3) Non-electronic payment processing fee~~[-]~~ ~~[a]~~. Assessed on a non-electronic payment~~[-]~~ ~~when the department has provided an electronic payment process and stated the electronic process is the~~

~~preferred process for receiving a payment~~ ~~[-]~~, due with each non-electronic payment or by the due date on the invoice~~[-]~~ ~~[-]~~ \$25.

R590-102-22. Dedicated Fees.

The following are fees dedicated to specific uses:

- (1) Fraud assessment:
 - ~~_____ (a) annual [fraud]~~ assessment ~~[fee]~~ as calculated under Section 31A-31-108 and stated in the invoice~~[-]~~, due by the due date on the invoice; and
 - (b) late fee~~[-]~~, due for any fraud assessment fee paid after the due date on the invoice~~[-]~~ ~~[-]~~ \$50~~[-]~~;
- (2) Title insurance regulation assessment: annual ~~[title insurance regulation]~~ assessment ~~[fee]~~ as calculated under Section 31A-23a-415 and Rule R592-10 and stated in the invoice~~[-]~~, due by the due date on the invoice~~[-]~~ ~~[-]~~;
- (3) ~~[annual title assessment for the]~~ Annual Title Recovery, Education, and Research Fund ~~[fee]~~ assessment:
 - (a) individual title licensee applicant for initial license or renewal license~~[-]~~, due with the initial application or the renewal application~~[-]~~ ~~[-]~~ \$15;
 - (b) agency title licensee applicant~~[-]~~, due with the initial application~~[-]~~ ~~[-]~~ \$1,000; and
 - (c) annual agency title licensee assessment based on annual written title insurance premium~~[-]~~, due by the due date on the invoice:
 - (i) Band A~~[-]~~, \$0 to \$1 million~~[-]~~ ~~[-]~~ \$125;
 - (ii) Band B~~[-]~~, more than \$1 million to \$10 million~~[-]~~ ~~[-]~~ \$250;
 - (iii) Band C~~[-]~~, more than \$10 million to \$20 million~~[-]~~ ~~[-]~~ \$375; and
 - (iv) Band D~~[-]~~, more than \$20 million~~[-]~~ ~~[-]~~ \$500~~[-]~~;
- ~~_____ (4) (a) relative value study book fee due when book purchased or by invoice due date: \$10;~~
- ~~_____ (b) Health insurance actuarial review assessment: annual [health insurance actuarial review] assessment [fee] as calculated under Section 31A-30-115 and stated in the invoice[-], due by the due date on the invoice[-].~~
- (5) Code book fees:
 - ~~_____ (a) code book[-], due [when book purchased] at time of purchase or by invoice due date[-] ~~[-]~~ \$57; and~~
 - (b) mailing fee~~[-]~~ ~~for books~~ ~~[-]~~, due at time of purchase or by invoice due date if book is to be mailed to purchaser~~[-]~~ ~~[-]~~ \$3~~[-]~~;
- (6) ~~[F]~~ Fingerprint fees~~[-]~~, due with application for individual license:
 - (a) Bureau of Criminal Investigation (BCI)~~[-]~~ ~~[-]~~ \$15; and
 - (b) Federal Bureau of Investigation (FBI)~~[-]~~ ~~[-]~~ \$13.25~~[-]~~;
 - ~~_____ (7) annual health insurance actuarial review assessment fee as calculated under Section 31A-30-115 and stated in the invoice due by the due date on the invoice].~~

R590-102-23. Electronic Commerce Dedicated Fees.

- (1) Electronic commerce, e-commerce, and internet technology services fee:
 - (a) admitted insurer and surplus lines insurer~~[-]~~, due with the initial, ~~[annual]~~ renewal, or reinstatement application~~[-]~~ ~~[-]~~ \$75;
 - (b) captive insurer~~[-]~~, due with the initial, ~~[annual]~~ renewal, or reinstatement application~~[-]~~ ~~[-]~~ \$250;
 - (c) other organization including professional employer organization, continuing care provider, pharmacy benefit manager and life settlement provider~~[-]~~, due with the initial, ~~[annual]~~ renewal, or reinstatement application~~[-]~~ ~~[-]~~ \$50;
 - (d) continuing education provider~~[-]~~, due with the initial, ~~[annual]~~ renewal, or reinstatement application~~[-]~~ ~~[-]~~ \$20;

(e) agency~~[-]~~, due with the initial, [~~biennial~~]-renewal, or reinstatement application~~[-]~~ - \$10; and

(f) individual~~[-]~~, due with the initial, [~~biennial~~]-renewal, or reinstatement application~~[-]~~ - \$5.

(2) Database access fees:

(a) information accessed through an electronic portal set up for that purpose~~[-]~~, due when the department's database is accessed to input or acquire data~~[-]~~ - \$3 per transaction; and

(b) rate and form filing database access to an electronic public rate and form filing, due at time of service or by the due date on the invoice:

(i) a separate fee is assessed per line of insurance accessed (accident and health, life and annuity, or property-casualty);

(ii) each line of insurance accessed is charged the following fees:

(A) a base fee, which entitles the user up to 30 minutes of access, the assistance of staff during that time, and one DVD~~[-]~~ - \$45; and

(B) each additional 30 minutes of access time or fraction thereof, including the assistance of staff during that time~~[-]~~ - \$45; and

(iii) additional DVD~~[-]~~ - \$2[~~5~~];

~~(iv) payment due at time of service or by the due date on the invoice].~~

R590-102-24. Other Fees.

(1) Photocopy fee - [~~per page-~~] \$0.50 per page.

(2) Complete annual statement copy fee - [~~per statement-~~] \$40 per statement.

(3) Fee for accepting service of legal process~~[-]~~ - \$10.

(4) Fees for production of information lists regarding licensees or other information that can be produced by list:

(a) printed list, if the information is already in list format and only needs to be printed or reprinted~~[-]~~ - \$1 per page; and

(b) electronic list compiled by accessing information stored in the Department's database:

(i) a separate fee is assessed for each list compiled;

(ii) each list is assessed one or more of the following fees:

(A) a base fee, which entitles the requestor up to 30 minutes of staff time to draft the information query, compile the information, prepare a CD, and prepare a CD for mailing to the requestor~~[-]~~, due with request for information~~[-]~~ - \$50; and

(B) each additional 30 minutes or fraction thereof to draft the information query, compile the information, prepare a CD, and prepare a CD for mailing to the requestor~~[-]~~, due by the due date on the invoice~~[-]~~ - \$50; and

(iii) additional CD~~[-]~~, due by the due date on the invoice~~[-]~~ - \$1.

(5) Returned check fee~~[-]~~ - \$20.

(6) Workers compensation loss cost multiplier schedule~~[-]~~ - \$5.

(7) Address correction fee~~[-]~~, assessed when department has to research and enter new address for a licensee~~[-]~~, due by the due date on the invoice~~[-]~~ - \$35.

(8) Independent [~~R~~]review [~~O~~]organization~~[-]~~ initial application fee~~[-]~~, due with application~~[-]~~ - \$250.

(9) Withdrawal from writing a line of insurance or reducing total annual premium volume by 75% or more~~[-]~~, due with plan of orderly withdrawal submission~~[-]~~ - \$50,000.

(10) Administrative disciplinary action removal from public access on Insurance Department controlled website~~[-]~~, due with application~~[-]~~ - \$185.

R590-102-25. Severability.

If any provision of this rule, R590-102, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule which can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application. [~~If any provision or clause of this rule or its application to any person or situation is held to be invalid, that 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: insurance fees

Date of Enactment or Last Substantive Amendment: [~~March 10,~~ 2020

Notice of Continuation: December 12, 2016

Authorizing, and Implemented or Interpreted Law: 31A-3-103

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R657-6	Filing No. 52840

Agency Information

1. Department:	Natural Resources	
Agency:	Wildlife Resources	
Room no.:	Suite 2110	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 146301	
City, state, zip:	Salt Lake City, UT 84114-6301	
Contact person(s):		
Name:	Phone:	Email:
Staci Coons	801-450-3093	stacicoons@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R657-6. Tagging Requirements
3. Purpose of the new rule or reason for the change:
This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) rule pursuant to the taking of upland game.

4. Summary of the new rule or change:
 The proposed amendments to this rule clarify the process for tagging sandhill crane, greater sage grouse, and sharp-tailed grouse.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:
 The proposed rule amendments clarify the tagging requirements for sandhill crane, greater sage grouse, and sharp-tailed grouse. These changes can be initiated within the current workload and resources of the DWR, therefore, DWR has determined that these amendments do not create a cost or savings impact to the state budget or DWR's budget since the changes will not increase workload and can be carried out with existing budget.

B) Local governments:
 Since the proposed amendments only clarify a regulation already in place, this filing does not create any direct cost or savings impact to local governments. Nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):
 The proposed rule amendments will not directly impact small businesses because a service is not required of them.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):
 The proposed rule amendments will not directly impact non-small businesses because a service is not required of them.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an *agency*):
 These amendments do not have the potential to create a cost impact to those individuals wishing to participate in the hunting of sandhill crane, greater sage grouse, and sharp-tailed grouse.

F) Compliance costs for affected persons:
 DWR has determined that this amendment will not create additional costs for those participating in sandhill crane, greater sage grouse, or sharp-tailed grouse hunting in Utah.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Natural Resources, Brian Steed, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses.

B) Name and title of department head commenting on the fiscal impacts:

Brian Steed, Executive Director

Citation Information

7. This rule change is authorized or mandated by state

law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 23-14-18	Section 23-14-19	
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	07/31/2020
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10. This rule change MAY become effective on:	08/07/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Mike Fowlks, DWR Director	Date:	06/15/2020
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R657. Natural Resources, Wildlife Resources.

R657-6. Taking Upland Game.

R657-6-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19 and in accordance with 50 CFR 20, 2004 edition, which is incorporated by reference, the Wildlife Board has established this rule for taking upland game.

(2) Specific season dates, bag and possession limits, areas open, number of permits and other administrative details that may change annually are published in the guidebook of the Wildlife Board for taking upland game and wild turkey.

R657-6-16. Tagging Requirements.

(1) ~~[The carcass of a Sandhill]~~ A person that takes a sandhill crane, greater sage grouse, or sharp-tailed grouse must [be tagged] tag the carcass, as provided in [accordance with] Section 23-20-30, immediately upon taking possession of the carcass.

(2) To tag a carcass, a person shall:

- (a) completely detach the tag from the license or permit;
- (b) completely remove the appropriate notches to correspond with the date the animal was taken; and
- (c) attach the tag to the carcass so that the tag remains securely fastened and visible.

(3) A person may not:

- (a) remove more than one notch indicating the date; or
- (b) tag more than one carcass using the same tag.
- (4) A person may not hunt or pursue [~~Sandhill~~]a sandhill crane, greater sage grouse, or sharp-tailed grouse after:

 - (a) shooting and retrieving the bird;
 - (b) the tag is detached from the permit; or
 - (c) any of the notches have been removed from the tag[~~or the tag has been detached from the permit~~].

KEY: wildlife, birds, rabbits, game laws

Date of Enactment or Last Substantive Amendment: ~~August 7, 2017~~ **2020**

Notice of Continuation: June 8, 2015

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R657-9	Filing No. 52841

Agency Information

1. Department:	Natural Resources	
Agency:	Wildlife Resources	
Room no.:	Suite 2110	
Building:	Department of Natural Resources	
Street address:	1594 W North Temple	
City, state:	Salt Lake City, UT	
Mailing address:	PO Box 146301	
City, state, zip:	Salt Lake City, UT 84114-6301	
Contact person(s):		
Name:	Phone:	Email:
Staci Coons	801-450-3093	stacicoons@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
R657-9. Taking Waterfowl, Wilson's Snipe and Coot
3. Purpose of the new rule or reason for the change:
This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) rule pursuant to the taking of waterfowl, Wilson's snipe, and coot.
4. Summary of the new rule or change:
The proposed amendments to this rule clarify the process for tagging swans.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

The proposed rule amendments clarify the tagging requirements for swans. These changes can be initiated within the current workload and resources of the DWR, therefore, the DWR has determined that these amendments do not create a cost or savings impact to the state budget or DWR's budget since the changes will not increase workload and can be carried out with existing budget.

B) Local governments:

Since the proposed amendments only clarify a regulation already in place this filing does not create any direct cost or savings impact to local governments. Nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):

The proposed rule amendments will not directly impact small businesses because a service is not required of them.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

The proposed rule amendments will not directly impact non-small businesses because a service is not required of them.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

These amendments do not have the potential to create a cost impact to those individuals wishing to participate in the hunting of swans.

F) Compliance costs for affected persons:

DWR has determined that this amendment will not create additional costs for those participating in swan hunting in Utah.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0

Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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
H) Department head approval of regulatory impact analysis:			
The Executive Director of the Department of Natural Resources, Brian Steed, has reviewed and approved this fiscal analysis.			
6. A) Comments by the department head on the fiscal impact this rule may have on businesses:			
After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses.			
B) Name and title of department head commenting on the fiscal impacts:			
Brian Steed, Executive Director			

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	07/31/2020
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10. This rule change MAY become effective on:	08/07/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Mike Fowlks, DWR Director	Date:	06/15/2020
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**R657. Natural Resources, Wildlife Resources.
R657-9. Taking Waterfowl, Wilson's Snipe and Coot.
R657-9-1. Purpose and Authority.**

(1) Under authority of Sections 23-14-18 and 23-14-19, and in accordance with 50 CFR 20, 50 CFR 32.64 and 50 CFR 27.21, 2004 edition, which is incorporated by reference, the Wildlife Board has established this rule for taking waterfowl, Wilson's snipe, and coot.

(2) Specific dates, areas, limits, requirements and other administrative details which may change annually are published in the guidebook of the Wildlife Board for taking waterfowl, Wilson's snipe and coot.

R657-9-5. Tagging Swans.

(1)(a) ~~[The carcass of]~~ A person that takes a swan must [be tagged before] tag the carcass [is moved from or the hunter leaves the site of kill], as provided in Section 23-20-30[-], immediately upon taking possession of the carcass and reaching a location listed below that is closest to the place where the carcass was first retrieved by the hunter, another person, or a dog:

(i) the blind or fixed location in the field where the person taking the swan was set up and from where they shot at the swan;

(ii) a vessel available to the person; or

(iii) the first area of land free from standing water.

(b) "Vessel" means, for the purposes of this subsection, any type of watercraft used or capable of being used as a means of transportation on water.

~~[(2)]~~ (2) To tag a carcass, a person shall:

(a) completely detach the tag from the license or permit;

(b) completely remove the appropriate notches to correspond with the date the animal was taken; and

(c) attach the tag to the carcass so that the tag remains securely fastened and visible.

(3) A person may not:

(a) remove more than one notch indicating the date; or

(b) tag more than one carcass using the same tag.

(4) A person may not hunt or pursue a swan after:

(a) shooting and retrieving the swan;

(b) the tag is detached from the permit; or

(c) any of the notches have been removed from the tag ~~[or the tag has been detached from the permit].~~

**KEY: wildlife, birds, migratory birds, waterfowl
Date of Enactment or Last Substantive Amendment: ~~February 7, 2019~~ 2020
Notice of Continuation: August 1, 2016
Authorizing, and Implemented or Interpreted Law: 23-14-19; 23-14-18; 50 CFR part 20**

NOTICE OF PROPOSED RULE

TYPE OF RULE: Amendment

Utah Admin. Code Ref (R no.):	R657-54	Filing No.	52842
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Agency Information

1. Department:	Natural Resources
Agency:	Wildlife Resources
Room no.:	Suite 2110
Building:	Department of Natural Resources
Street address:	1594 W North Temple
City, state:	Salt Lake City, UT
Mailing address:	PO Box 146301
City, state, zip:	Salt Lake City, UT 84114-6301
Contact person(s):	
Name:	Phone: Email:
Staci Coons	801-450-3093 stacicoons@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

R657-54. Taking Wild Turkey

3. Purpose of the new rule or reason for the change:

This rule is being amended pursuant to Regional Advisory Council and Wildlife Board meetings conducted annually for taking public input and reviewing the Division of Wildlife Resources' (DWR) rule pursuant to the taking of wild turkey.

4. Summary of the new rule or change:

The proposed amendments to this rule clarify the process for tagging wild turkey.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

The proposed rule amendments clarify the tagging requirements for wild turkey. These changes can be initiated within the current workload and resources of the DWR, therefore, the DWR has determined that these

amendments do not create a cost or savings impact to the state budget or DWR's budget since the changes will not increase workload and can be carried out with existing budget.

B) Local governments:

Since the proposed amendments only clarify a regulation already in place this filing does not create any direct cost or savings impact to local governments. Nor are local governments indirectly impacted because this rule does not create a situation requiring services from local governments.

C) Small businesses ("small business" means a business employing 1-49 persons):

The proposed rule amendments will not directly impact small businesses because a service is not required of them.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

The proposed rule amendments will not directly impact non-small businesses because a service is not required of them.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

These amendments do not have the potential to create a cost impact to those individuals wishing to participate in the hunting of wild turkeys.

F) Compliance costs for affected persons:

DWR has determined that this amendment will not create additional costs for those participating in wild turkey hunting in Utah.

G) Regulatory Impact Summary Table (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 will be included in narratives above.)

Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0

Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Natural Resources, Brian Steed, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses.

B) Name and title of department head commenting on the fiscal impacts:

Brian Steed, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 23-14-18	Section 23-14-19	
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Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until:	07/31/2020
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10. This rule change MAY become effective on:	08/07/2020
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NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Mike Fowlks, DWR Director	Date:	06/15/2020
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R657. Natural Resources, Wildlife Resources.

R657-54. Taking Wild Turkey.

R657-54-1. Purpose and Authority.

(1) Under authority of Sections 23-14-18 and 23-14-19 and in accordance with 50 CFR 20, 2003 edition, which is incorporated by reference, the Wildlife Board has established this rule for taking wild turkey.

(2) Specific season dates, bag and possession limits, areas open, number of permits and other administrative details that may change annually are published in the guidebook of the Wildlife Board for taking upland game and wild turkey.

R657-54-11. Tagging Requirements.

(1) ~~[The carcass of]~~A person that takes a turkey must ~~[be tagged before]~~tag the carcass~~[is moved from, or the hunter leaves, the site], as provided in Section 23-20-3-, immediately upon taking possession of [kill]the carcass.~~

(2) To tag a carcass, a person shall:

- (a) completely detach the tag from the license or permit;
- (b) completely remove the appropriate notches to

correspond with:

- (i) the date the animal was taken;
- (ii) the sex of the animal; and
- (c) attach the tag to the carcass so that the tag remains

securely fastened and visible.

(3) A person may not:

- (a) remove more than one notch indicating date or sex; or
- (b) tag more than one carcass using the same tag.

(4) A person may not hunt or pursue a turkey after :

- (a) shooting and retrieving the bird;
- (b) the tag is detached from the permit;

~~(c) any of the notches have been removed from the tag [or the tag has been detached from the permit].~~

KEY: wildlife, wild turkey, game laws

Date of Enactment or Last Substantive Amendment: ~~[August 9, 2018]~~2020

Notice of Continuation: August 5, 2019

Authorizing, and Implemented or Interpreted Law: 23-14-18; 23-14-19

NOTICE OF PROPOSED RULE		
TYPE OF RULE: Amendment		
Utah Admin. Code Ref (R no.):	R986-700-901	Filing No. 52838

Agency Information

1. Department:	Workforce Services	
Agency:	Employment Development	
Building:	Olene Walker Building	
Street address:	140 E 300 S	
City, state:	Salt Lake City, UT 84111	
Mailing address:	PO Box 45244	
City, state, zip:	Salt Lake City, UT 84145-0244	
Contact person(s):		
Name:	Phone:	Email:
Amanda B. McPeck	801-517-4709	ampeck@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:
R986-700-901. Unearned Income, Pandemic
3. Purpose of the new rule or reason for the change:
The purpose of the new section is to maintain services for child care subsidy families and providers during the COVID-19 pandemic.
4. Summary of the new rule or change:
The new section allows the Department of Workforce Services, Office of Child Care to exclude Federal Pandemic Unemployment Compensation from unearned income for purposes of determining eligibility for child care subsidy payments. Due to the COVID-19 pandemic, there are child care subsidy (CC) customers who have lost employment through no fault of their own and require additional funds in order to care for their children. Excluding the \$600 per week Federal Pandemic Unemployment Compensation (FPUC) payments from CC income eligibility determinations will allow families who are eligible for CC to maintain eligibility while receiving FPUC, thus allowing them to return to work more quickly once business resumes. An emergency rule was enacted April 20, 2020, but FPUC payments may continue past July 31, 2020, depending on Congressional action, so this new section is proposed.

Fiscal Information

5. Aggregate anticipated cost or savings to:

<p>A) State budget:</p> <p>The new section is not expected to have any fiscal impact on state revenues or expenditures. There are no additional state employees or resources needed to oversee the new section. The new section will not increase workload and can be carried out with existing budget. Any costs will be paid with funds granted to the state through the federal Child Care and Development Fund.</p>
<p>B) Local governments:</p> <p>The new section is not expected to have any fiscal impact on local governments' revenues or expenditures because the program is federally-funded and does not rely on local governments for funding, administration, or enforcement.</p>
<p>C) Small businesses ("small business" means a business employing 1-49 persons):</p> <p>The majority of child care providers are small businesses (North American Industry Classification System (NAICS) 624410). It is anticipated that this new section will allow approximately 397 families with 725 children to continue to receive child care based on data obtained on April 17, 2020. The average subsidy payment per child each month is \$478. As a result, this will allow approximately \$346,550 per month to continue to flow to child care providers so they can maintain their businesses. In the absence of the rule change, these programs will lose this funding at a time when enrollment and revenues in programs are dramatically reduced.</p>
<p>D) Non-small businesses ("non-small business" means a business employing 50 or more persons):</p> <p>Some child care providers are non-small businesses (NAICS 624410). It is anticipated that this new section will allow approximately 397 families with 725 children to continue to receive child care based on data obtained on April 17, 2020. The average subsidy payment per child each month is \$478. As a result, this will allow approximately \$346,550 per month to continue to flow to child care providers so they can maintain their businesses. In the absence of the rule change, these programs will lose this funding at a time when enrollment and revenues in programs are dramatically reduced.</p>
<p>E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):</p> <p>It is anticipated that this rule will allow approximately 397 families with 725 children to continue to receive child care based on data obtained on April 17, 2020. The average subsidy payment per child each month is \$478. This rule will support low-income parents to maintain their child care arrangements during the COVID-19 pandemic.</p>

<p>F) Compliance costs for affected persons:</p> <p>The new section is not expected to cause any compliance costs for affected persons because the new section does not create any new administrative fees. Provider compliance responsibilities are not changed with this new section.</p>																																																												
<p>G) Regulatory Impact Summary Table (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 will be included in narratives above.)</p> <p>Regulatory Impact Table</p> <table border="1"> <thead> <tr> <th>Fiscal Cost</th> <th>FY2021</th> <th>FY2022</th> <th>FY2023</th> </tr> </thead> <tbody> <tr> <td>State Government</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Local Governments</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Non-Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Other Persons</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Total Fiscal Cost</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Fiscal Benefits</td> <td></td> <td></td> <td></td> </tr> <tr> <td>State Government</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Local Governments</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Non-Small Businesses</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Other Persons</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Total Fiscal Benefits</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>Net Fiscal Benefits</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> </tbody> </table>	Fiscal Cost	FY2021	FY2022	FY2023	State Government	\$0	\$0	\$0	Local Governments	\$0	\$0	\$0	Small Businesses	\$0	\$0	\$0	Non-Small Businesses	\$0	\$0	\$0	Other Persons	\$0	\$0	\$0	Total Fiscal Cost	\$0	\$0	\$0	Fiscal Benefits				State Government	\$0	\$0	\$0	Local Governments	\$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
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Net Fiscal Benefits	\$0	\$0	\$0																																																									
<p>H) Department head approval of regulatory impact analysis:</p> <p>The Executive Director of the Department of Workforce Services, Jon Pierpont, has reviewed and approved this fiscal analysis.</p>																																																												
<p>6. A) Comments by the department head on the fiscal impact this rule may have on businesses:</p> <p>The funding for child care is provided by the federal Child Care and Development Block Grant (CCDBG). At this time, child care programs continue to receive subsidy</p>																																																												

payments for all families that were determined eligible for subsidies at the time of application unless their earnings exceed the federally established income threshold of 85% of the state median income (SMI). The CCDBG Act allows states to establish the definition of "income" for purposes of determining whether a family is at 85% SMI. Utah includes standard unemployment benefits as "income" for purposes of eligibility. This rule will not change that underlying requirement. However, by excluding the additional unemployment payment of \$600 per week established in the Coronavirus Aid, Relief, and Economic Security Act of 2020 for all qualified UI recipients, Utah will be supporting the child care businesses that rely on family tuition payments to meet most operating expenses by maintain program income through a stable child care subsidy program. This is of great economic importance to Utah given that approximately 38% of licensed centers and 18% of licensed family child care programs have already had to close during the COVID-19 pandemic due to low enrollment.

B) Name and title of department head commenting on the fiscal impacts:

Jon Pierpont, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 35A-3-310 | Section 53F-5-210

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency

not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/31/2020

10. This rule change MAY become effective on: 08/07/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title:	Jon Pierpont, Executive Director	Date:	06/15/2020
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R986. Workforce Services, Employment Development.

R986-700. Child Care Assistance.

R986-700-901. Unearned Income, Pandemic.

(1) This Section supersedes any conflicting provisions of Rules R986-200 and R986-700.

(2) Federal Pandemic Unemployment Compensation under Section 2104 of the Coronavirus Aid, Relief, and Economic Security Act of 2020, Pub. L. No. 116-136, is not countable unearned income for purposes of determining eligibility for any child care subsidy program.

KEY: child care, grant programs

Date of Enactment or Last Substantive Amendment: 2020

Notice of Continuation: September 3, 2015

Authorizing, and Implemented or Interpreted Law: 35A-3-310; 53A-1b-110; 53F-5-210

End of the Notices of Proposed Rules Section

NOTICES OF CHANGES IN PROPOSED RULES

After an agency has published a **PROPOSED RULE** in the *Utah State Bulletin*, it may receive comment that requires the **PROPOSED RULE** to be altered before it goes into effect. A **CHANGE IN PROPOSED RULE** allows an agency to respond to comments it receives.

As with a **PROPOSED RULE**, a **CHANGE IN PROPOSED RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **CHANGE IN PROPOSED RULE** including the name of a contact person, anticipated cost impact of the rule, and legal cross-references.

While the law does not designate a comment period for a **CHANGE IN PROPOSED RULE**, it does provide for a 30-day waiting period. An agency may accept additional comments during this period and, at its option, may designate a comment period or may hold a public hearing. The 30-day waiting period for **CHANGES IN PROPOSED RULES** published in this issue of the *Utah State Bulletin* ends July 31, 2020.

Following the **RULE ANALYSIS**, the text of the **CHANGE IN PROPOSED RULE** is usually printed. The text shows only those changes made since the **PROPOSED RULE** was published in an earlier edition of the *Utah State Bulletin*. Additions made to the rule appear underlined (example). Deletions made to the rule appear struck out with brackets surrounding them (~~example~~). A row of dots in the text between paragraphs (.) indicates that unaffected text, either whole sections or subsections, was removed to conserve space. If a **CHANGE IN PROPOSED RULE** is too long to print, the Office of Administrative Rules may include only the **RULE ANALYSIS**. A copy of rules that are too long to print is available from the agency or from the Office of Administrative Rules.

From the end of the 30-day waiting period through October 29, 2020, an agency may notify the Office of Administrative Rules that it wants to make the **CHANGE IN PROPOSED RULE** effective. When an agency submits a **NOTICE OF EFFECTIVE DATE** for a **CHANGE IN PROPOSED RULE**, the **PROPOSED RULE** as amended by the **CHANGE IN PROPOSED RULE** becomes the effective rule. The agency sets the effective date. The date may be no fewer than 30 days nor more than 120 days after the publication date of the **CHANGE IN PROPOSED RULE**. If the agency designates a public comment period, the effective date may be no fewer than seven calendar days after the close of the public comment period nor more than 120 days after the publication date. Alternatively, the agency may file another **CHANGE IN PROPOSED RULE** in response to additional comments received. If the Office of Administrative Rules does not receive a **NOTICE OF EFFECTIVE DATE** or another **CHANGE IN PROPOSED RULE** by the end of the 120-day period after publication, the **CHANGE IN PROPOSED RULE** filing, along with its associated **PROPOSED RULE**, lapses.

CHANGES IN PROPOSED RULES are governed by Section 63G-3-303, Rule R15-2, and Sections R15-4-3, R15-4-4, R15-4-5b, R15-4-7, R15-4-9, and R15-4-10.

The Changes in Proposed Rules Begin on the Following Page

NOTICE OF CHANGE IN PROPOSED RULE		
Utah Admin. Code Ref (R no.):	R307-165	Filing No. 52601

Agency Information

1. Department:	Environmental Quality	
Agency:	Air Quality	
Room no.:	Fourth Floor	
Building:	Multi Agency State Office Building	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, UT 84116	
Mailing address:	PO Box 144820	
City, state, zip:	Salt Lake City, UT 84114-4820	
Contact person(s):		
Name:	Phone:	Email:
Liam Thrailkill	801-536-4419	lthrailkill@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:		
R307-165. Stack Testing		
3. Change in Proposed Rule:		
Changes Name, date of prior filing:	FILING Publication	Emission Testing, Filing No. 52601, Published 04/01/2020
4. Reason for this change:		
The change came about due to public comments requesting further clarity.		
5. Summary of this change:		
This change clarifies rule applicability. The change does not modify the intent of applicability but clarifies and ensures readability of this rule. (EDITOR'S NOTE: The original proposed repeal and reenact upon which this change in proposed rule (CPR) was based was published in the April 1, 2020, issue of the Utah State Bulletin, on page 16. Underlining in the rule below indicates text that has been added since the publication of the proposed repeal and reenact mentioned above; strike-out indicates text that has been deleted. You must view the CPR and the proposed repeal and reenact together to understand all of the changes that will be enforceable should the agency make this rule effective.)		

Fiscal Information

6. Aggregate anticipated cost or savings to:			
A) State budget:			
There are no anticipated costs due to the change in proposed rule to the state budget as this amendment is for clarification.			
B) Local government:			
There are no anticipated costs due to the change in proposed rule to local governments as this amendment is for clarification.			
C) Small businesses ("small business" means a business employing 1-49 persons):			
There are no anticipated costs due to the change in proposed rule to small businesses as this amendment is for clarification.			
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):			
There are no anticipated costs due to the change in proposed rule to non-small businesses as this amendment is for clarification.			
E) Persons other than small businesses, non-small businesses, or state or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):			
There are no anticipated costs due to the change in proposed rule to persons other than small businesses, non-small businesses, or state or local government entities as this amendment is for clarification.			
F) Compliance costs for affected persons:			
There are no anticipated compliance costs for affected persons as this amendment is for clarification.			
G) Regulatory Impact Summary Table (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 will be included in narratives above.)			
Regulatory Impact Table			
Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0

Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$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

H) Department head approval of regulatory impact analysis:

The Executive Director of the Department of Environmental Quality, L. Scott Baird, has reviewed and approved this fiscal analysis.

7. A) Comments by the department head on the fiscal impact the rule may have on businesses:

This change in proposed rule is intended to clarify applicability and ensure easier readability of this rule and is anticipated to have no fiscal impact on businesses.

B) Name and title of department head commenting on the fiscal impacts:

L. Scott Baird, Executive Director

Citation Information

8. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Subsection 19-2-104(1)		
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Public Notice Information

10. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until: 07/31/2020

11. This rule change MAY become effective on: 08/08/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 11, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

Agency head or designee, and title: Bryce Bird, Director
Date: 05/18/2020

R307. Environmental Quality, Air Quality.

R307-165. Stack Testing.

R307-165-1. Purpose and Applicability.

(1) The purpose of Rule R307-165 is to establish the requirements for stack testing.

(2) Rule R307-165 applies to ~~all~~ each emissions unit[s] with established ~~source specific~~ emission limitations ~~as~~ specified in approval orders issued under Rule R307-401 or in the Utah State Implementation Plan Section IX, Part H.

(3) Rule R307-165 does not apply to opacity limitations or emissions units with emissions monitored under Rule R307-170.

R307-165-2. Testing Frequency.

(1) The owner or operator of an emissions unit under Subsection R307-165-1(2) shall conduct stack testing at least once every five years. More frequent testing may be required as specified in an applicable federal rule, approval order, Title V permit, or State Implementation Plan.

(2) If the director has reason to believe that an applicable emission limitation is being exceeded, the owner or operator shall perform such stack testing as is necessary to determine the actual compliance status and as required by the director.

NOTICES OF CHANGES IN PROPOSED RULES

(3) The owner or operator shall conduct stack testing of an emissions unit approved under Rule R307-401 within 180 days of startup.

R307-165-3. Notification of DAQ.

(1) Unless otherwise specified by federal rule, the owner or operator shall notify the director of the date, time and place of stack testing no less than 30 days, before conducting a stack test, and provide a copy of the source test protocol to the director.

(2) The source shall obtain approval of the protocol from the director prior to conducting the test. The source test protocol shall:

- (a) identify the reason for the test;
- (b) outline each proposed test methodology;
- (c) identify each stack to be tested; and
- (d) identify each procedure to be used.

(3) The owner or operator shall attend a pretest conference if determined necessary by the director.

R307-165-4. Test Conditions.

(1) The production rate during all stack testing shall be no less than 90% of the maximum production rate achieved in the previous three years. If the desired production rate is not achieved at the time of the test, the maximum production rate shall be 110% of the tested achieved rate, but not more than the maximum allowable production rate. This new allowable maximum production rate shall remain in effect until successfully tested at a higher rate. The owner or operator shall request a higher production rate when necessary. Testing at no less than 90% of the higher rate shall be conducted. A new maximum

production rate of 110% of the new rate will then be allowed if the test is successful. This process may be repeated until the maximum allowable production rate is achieved.

(2) During the stack testing, the owner or operator shall burn fuels or combinations of fuels, use raw materials, and maintain process conditions representative of normal operations of the emissions unit.

(3) The owner or operator shall operate the emissions unit under such other relevant conditions as the director shall specify.

R307-165-5. Reporting.

The owner or operator shall submit a written report of the results from the stack testing to the director no later than 60 days after completion of the stack testing. The report shall include validated results and supporting information.

R307-165-6. Rejection of Test Results.

The director may reject stack testing results if determined to be incomplete, inadequate, not representative of operating conditions specified for the test, or if the director was not provided an opportunity to have an observer present at the test.

KEY: air pollution, emission testing

Date of Enactment or Last Substantive Amendment: 2020

Notice of Continuation: December 9, 2019

Authorizing, and Implemented or Interpreted Law: 19-2-104(1)

End of the Notices of Changes in Proposed Rules Section

NOTICES OF 120-DAY (EMERGENCY) RULES

An agency may file a **120-DAY (EMERGENCY) RULE** when it finds that regular rulemaking procedures would:

- (a) cause an imminent peril to the public health, safety, or welfare;
- (b) cause an imminent budget reduction because of budget restraints or federal requirements; or
- (c) place the agency in violation of federal or state law (Subsection 63G-3-304(1)).

As with a **PROPOSED RULE**, a **120-DAY RULE** is preceded by a **RULE ANALYSIS**. This analysis provides summary information about the **120-DAY RULE** including the name of a contact person, justification for filing a **120-DAY RULE**, anticipated cost impact of the rule, and legal cross-references.

Following the **RULE ANALYSIS**, the text of the **120-DAY RULE** is printed. New text is underlined (example) and text to be deleted is struck out with brackets surrounding the deleted text (~~example~~). An emergency rule that is new is entirely underlined. Likewise, an emergency rule that repeals an existing rule shows the text completely struck out. A row of dots in the text (.) indicates that unaffected text was removed to conserve space.

A **120-DAY RULE** is effective when filed with the Office of Administrative Rules, or on a later date designated by the agency. A **120-DAY RULE** is effective for 120 days or until it is superseded by a permanent rule. Because of its temporary nature, a **120-DAY RULE** is not codified as part of the *Utah Administrative Code*.

The law does not require a public comment period for **120-DAY RULES**. However, when an agency files a **120-DAY RULE**, it may file a **PROPOSED RULE** at the same time, to make the requirements permanent.

Emergency or **120-DAY RULES** are governed by Section 63G-3-304, and Section R15-4-8.

NOTICE OF EMERGENCY (120-DAY) RULE		
Utah Admin. Code Ref (R no.):	R68-32	Filing No. 52823

Agency Information

1. Department:	Agriculture and Food	
Agency:	Plant Industry	
Street address:	350 N Redwood Road	
City, state, zip:	Salt Lake City, UT 84115	
Mailing address:	PO Box 146500	
City, state, zip:	Salt Lake City, UT 84114-6500	
Contact person(s):		
Name:	Phone:	Email:
Amber Brown	801-982-2204	ambermbrown@utah.gov
Cody James	801-982-2376	Codyjames@utah.gov
Kelly Pehrson	801-982-2202	kwpehrson@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R68-32. Sale and Transfer of Industrial Hemp Waste to Medical Cannabis Cultivators
3. Effective Date:
06/26/2020
4. Purpose of the new rule or reason for the change:
This new rule provides guidelines governing the sale of industrial hemp waste to medical cannabis cultivators, which was allowed S.B. 121 from the 2020 General Session.
5. Summary of the new rule or change:
This new rule provides guidelines governing the sale of industrial hemp waste to medical cannabis cultivators, including related to department pre-approval of sales, sale requirements, and record keeping and transportation requirements.
6. Regular rulemaking would:
<input type="checkbox"/> cause an imminent peril to the public health, safety, or welfare;
<input type="checkbox"/> cause an imminent budget reduction because of budget

	restraints or federal requirements; or
X	place the agency in violation of federal or state law.
Specific reason and justification:	
Emergency rulemaking is necessary to allow for the recently statutorily prescribed in S.B. 121 (2020) sale of industrial hemp waste to medical cannabis cultivators to take place as soon as possible. The Department of Agriculture and Food (Department) is not able to get a final rule in place during the time frame set by the first emergency filing and is filing a second emergency filing in order to allow the regulated of industrial hemp waste to cannabis cultivators to continue.	

Fiscal Information

7. Aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings to the state budget because sales would occur under existing licenses of industrial hemp processors and cultivators and medical cannabis cultivators. No additional inspections will be required. Industrial hemp waste will be tested in the same way as other cannabis products and testing fees cover the cost of testing.
B) Local governments:
There is no anticipated cost or savings to local governments because local governments are not industrial hemp or cannabis cultivators or processors and do not participate in the sale or regulation of the sale of industrial hemp waste.
C) Small businesses ("small business" means a business employing 1-49 persons):
There are no anticipated additional costs to small businesses (industrial hemp cultivators and processors and cannabis cultivators) because the testing and licensing required would be the same as for other cannabis products. Those who are able to sell industrial hemp waste will benefit from the sale although it is difficult to know at the outset of this program how many sales will occur.
D) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):
There are no anticipated cost or benefits to persons other than small businesses, non-small businesses, or state or local government entities because other persons are not regulated as industrial hemp cultivators or processors or cannabis cultivators and do not participate in the sale of industrial hemp waste under this program.
8. Compliance costs for affected persons:

Compliance costs would not change for cannabis cultivators as the industrial hemp waste products would be subject to the same testing requirements as other cannabis products. Industrial hemp cultivators and processors would be subject to the same licensing requirements as prior to the new rule.
9. A) Comments by the department head on the fiscal impact this rule may have on businesses:
This rule is necessary to allow for the sale of industrial hemp waste into the medical cannabis marketplace to cultivators as allowed under recently passed legislation. The rule is not associated with an anticipated fiscal impact on businesses.
B) Name and title of department head commenting on the fiscal impacts:
R. Logan Wilde, Commissioner

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):		
Subsection 4-2-103(1)(i)	Subsection 4-41a-603(3)	Title 4, Chapter 41a
Section 4-41a-102		

Agency Authorization Information

Agency head or designee, and title:	R. Logan Wilde, Commissioner	Date:	06/09/2020
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R68. Agriculture and Food, Plant Industry.
R68-32. Sale and Transfer of Industrial Hemp Waste to Medical Cannabis Cultivators.

R68-32-1. Authority and Purpose.
 1) Pursuant to Section 4-41a, 4-41a-102, and Subsections 4-2-103(1)(i) and 4-41a-603(3), this rule establishes the procedures governing the sale of industrial hemp waste by an industrial hemp cultivator or processing facility to a cannabis cultivation facility, including procedures for sale approval, extraction, transportation, recordkeeping, testing, and inspection and recall.

R68-32-2. Definitions.

- 1) "Batch" means a quantity of:
- a) cannabis extract produced on a particular date and time, following clean up until the next clean up during which the same lots of cannabis are used;
 - b) cannabis product produced on a particular date and time, following clean up until the next clean up during which cannabis extract is used; or
 - c) cannabis flower from a single strain and growing cycle packaged on a particular date and time, following clean up until the next clean up during which lots of cannabis are being used.
- 2) "Cannabinoid" means any:

a) naturally occurring derivative of cannabigerolic acid (CAS 25555-57-1); or

b) any chemical compound that is both structurally and chemically similar to a derivative of cannabigerolic acid.

3) "Cannabis" means any part of the marijuana plant.

4) "Cannabis cultivation facility" means a person that:

a) possesses cannabis;

b)i) grows or intends to grow cannabis; or

ii) acquires or intends to acquire industrial hemp waste from a holder of an industrial hemp cultivator license under Title 4, Chapter 41, Hemp and Cannabinoid Act, or an industrial hemp processor; and

c) sells or intends to sell cannabis to a cannabis cultivation facility or a cannabis processing facility.

5) "Cannabis product" means a product that:

a) is intended for human use; and

b) contains cannabis or tetrahydrocannabinol.

6) "Certificate of analysis" (COA) means a document produced by a testing laboratory listing the quantities of the various analytes for which testing was performed.

7) "Department" means the Utah Department of Agriculture and Food.

8) "Final product" means a reasonably homogenous cannabis product in its final packaged form created using the same standard operating procedures and the same formulation.

9) "Industrial hemp waste" means:

a) a cannabinoid extract derived from industrial hemp with greater than 0.3% THC by mass; or

b) industrial hemp biomass with a THC concentration of less than 0.3% by dry weight.

10) "Industrial hemp" means any part of the cannabis plant, whether growing or not, with a concentration of less than .3% tetrahydrocannabinol by dry weight.

11) "Inventory Control System" means the system described in Section 4-41a-103.

12) "Lot" means the quantity of:

a) flower produced on a particular date and time, following clean up until the next clean up during which the same materials are used; or

b) trim, leaves, or other plant matter from cannabis plants produced on a particular date and time, following clean up until the next clean up.

R68-32-3. Sale of Industrial Hemp Waste-Requirements.

1) Industrial hemp waste may be sold by an industrial hemp cultivator or industrial hemp processing facility to a cannabis cultivation facility if:

a) the industrial hemp waste is derived from industrial hemp biomass that has been certified as industrial hemp by a state department of agriculture or the U.S. Department of Agriculture;

b) the industrial hemp cultivator or industrial hemp processing facility has records to substantiate the certification; and

c) the records are available for inspection by the department.

2) If an industrial hemp cultivator or industrial hemp processing facility intends to sell industrial hemp waste that is derived from industrial hemp biomass that was purchased out of state:

a) the out of state seller shall provide proof that the biomass was certified as industrial hemp by a state department of agriculture or the U.S. Department of Agriculture to the industrial hemp cultivator or industrial hemp processing facility; and

b) the industrial hemp cultivator or industrial hemp processing facility shall keep record of the certification.

R68-32-4. Sale of Industrial Hemp Waste-Notification and Approval.

1) Prior to the sale of industrial hemp waste by an industrial hemp cultivator or industrial hemp processing facility to a cannabis cultivation facility, the industrial hemp cultivator or processing facility shall:

a) starting April 1, 2020, notify the department of the potential sale in writing within 10 days of the sale; and

b) provide the department with a certificate of analysis showing that the biomass from which the industrial hemp waste was derived was certified industrial hemp by a state department of agriculture or the U.S. Department of Agriculture.

2) The department will approve the sale following review of the records of the industrial hemp cultivator or industrial hemp processing facility to ensure compliance with this Rule.

3) Upon approval of the sale, the department will issue a certificate to the industrial hemp cultivator or industrial hemp processing facility allowing the sale to proceed.

4) No industrial hemp waste may be sold by an industrial hemp cultivator or industrial hemp processing facility unless they have a license in good standing with the department.

R68-32-5. Industrial Hemp Waste Extraction.

1) Extraction of cannabinoid extract by an industrial hemp processing facility to be sold under this rule shall take place in Utah.

2) The industrial hemp processing facility shall keep records of the extraction, including:

a) how much industrial hemp biomass was processed by the industrial hemp processing facility;

b) how much cannabinoid extract was extracted during processing; and

c) proof that the extraction took place in Utah.

3) The industrial hemp processing facility shall make any extraction records available for inspection by the department.

4) A cannabis cultivation facility shall not take possession of cannabinoid extract that qualifies as industrial hemp waste without verifying that it has been extracted in Utah.

R68-32-6. Transportation.

1) Only an agent of a cannabis cultivation facility may transport industrial hemp waste.

2) A printed transport manifest shall accompany every transport of industrial hemp waste.

3) The manifest shall contain the following information:

a) the industrial hemp cultivator or industrial hemp processing facility address and license number of the departure location;

b) physical address and license number of the receiving location;

c) amount of industrial hemp waste that is being transported;

d) date and time of departure;

e) estimated date and time of arrival; and

f) name and signature of each agent accompanying the industrial hemp waste.

4) The transport manifest may not be voided or changed after departing from the original industrial hemp cultivator or industrial hemp processing facility.

5) The receiving cannabis cultivation facility shall ensure they are given a copy of the transport manifest.

6) The receiving cannabis cultivation facility shall ensure that the industrial hemp waste received is as described in the transport manifest and shall record the amounts received into the inventory control system.

NOTICES OF 120-DAY (EMERGENCY) RULES

7) The receiving cannabis cultivation facility shall document at the time of receipt any differences between the quantity specified in the transport manifest and the quantities received in the inventory control system.

- 8) During transport, the industrial hemp waste shall be:
a) shielded from the public view;
b) in a secure container; and
c) temperature controlled if perishable.

9) A cannabis cultivation facility shall contact the department within 24 hours if a vehicle transporting industrial hemp waste is involved in an accident that involves product loss.

R68-32-7. Recordkeeping Requirements.

1) A cannabis cultivation facility shall ensure that each lot or batch of industrial hemp waste previously purchased from an industrial hemp cultivator or industrial hemp processing facility has a unique identification number in the inventory control system.

2) Following purchase of industrial hemp waste from an industrial hemp cultivator or industrial hemp processing facility, a cannabis cultivation facility shall ensure that each lot or batch of industrial hemp waste has a unique identification number in the inventory control system.

3) By November 1, 2020 an industrial hemp cultivator shall ensure that each lot of industrial hemp waste sold to a cannabis cultivation facility shall have a unique identification number in the inventory control system.

4) By November 1, 2020, an industrial hemp processing facility shall ensure that each batch or lot of industrial hemp waste that is sold to a cannabis cultivation facility shall have a unique identification number in the inventory controls system.

5) A cannabis cultivation facility shall maintain a record of each purchase of industrial hemp waste, including:

- a) a copy of the certification that the industrial hemp waste is derived from certified industrial hemp; and
b) If applicable, a copy of the record documenting that the extraction of the cannabinoid extract that qualifies as industrial hemp waste took place Utah.

6) Records shall be available for inspection by the department.

R68-32-8. Testing Requirements.

1) Each lot or batch of industrial hemp waste purchased by a cannabis cultivation facility shall be tested by an independent cannabis laboratory pursuant to the requirements of R68-29-3:

- a) when the cannabis cultivation facility takes possession of the industrial hemp waste; and
b) when the industrial hemp waste is processed into its final product form.

2) Testing shall be documented on a certificate of analysis and recorded in the inventory control system.

3) Industrial hemp waste is subject to the same testing requirements as other cannabis product.

R68-32-9. Inspection and Recall.

1) The department has the right to conduct a random inspection of industrial hemp processing facilities, industrial hemp cultivators, and medical cannabis cultivators that are subject to this rule, including an audit of:

- a) the records of an industrial hemp processing facility that has sold industrial hemp waste;
b) the records of an industrial hemp cultivator that has sold industrial hemp waste; and

c) the records of a cannabis cultivation facility that has purchased industrial hemp waste;

d) to ensure compliance with Utah state law, rules, and this rule.

2) Inspection may take place at any time during normal business hours.

3) A product that is identified as out of compliance may be subject to recall and destruction by the department.

R68-32-10. Violations.

1) Violations of this rule include:

a) sale or transfer industrial hemp waste material without notifying the department;

b) sale of industrial hemp biomass that with a THC level greater than 0.3% by dry weight;

c) a medical cannabis facility allowing industrial hemp waste into the facility without entering it into the inventory control system;

d) a medical cannabis facility allowing industrial hemp waste product into the facility without testing;

e) a facility not keeping and maintaining all records required by this rule;

f) a facility denying the department access to the records;

g) transporting industrial hemp waste to a facility without a manifest; and

h) anyone other than a cannabis cultivation agent transporting industrial hemp waste to a cannabis cultivation facility.

2) The department shall assess fines of:

a) \$3,000-\$5,000 for public safety violations;

b) \$1,000-\$5,000 for regulatory violations; and

c) \$500-\$5,000 for licensing violations.

3) The department shall calculate fines based on the level of violation and the adverse effect or potential adverse effect at the time of the incidents giving rise to the violation.

4) The department may enhance or reduce the penalty based on the seriousness of the violation.

KEY: industrial hemp waste, industrial hemp processing facility, cannabis cultivation facility

Date of Enactment or Last Substantive Amendment: June 26, 2020
Authorizing, and Implemented or Interpreted Law: 4-2-103(1)(i); 4-41a; 4-41a-102; 4-41a-603(3)

NOTICE OF EMERGENCY (120-DAY) RULE

Table with 3 columns: Utah Admin. Code Ref (R no.): R986-700-900, Filing No. 52837

Agency Information

Table with 2 columns: Field Name, Value. Fields include Department (Workforce Services), Agency (Employment Development), Building (Olene Walker Building), Street address (140 E 300 S), City, state, zip (Salt Lake City, Utah 84111), Mailing address (PO Box 45244), City, state, zip (Salt Lake City, UT 84145-0244), Contact person(s)

Name:	Phone:	Email:
Amanda B. McPeck	801-517-4709	ampeck@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:						
R986-700-900. Emergency Rules, Pandemic						
3. Effective Date:						
06/15/2020						
4. Purpose of the new rule or reason for the change:						
The purpose of the emergency rule is to maintain services for child care subsidy families and providers during the COVID-19 pandemic.						
5. Summary of the new rule or change:						
The new emergency rule allows the Department of Workforce Services, Office of Child Care to exclude Federal Pandemic Unemployment Compensation from unearned income for purposes of determining eligibility for child care subsidy payments.						
6. Regular rulemaking would:						
<table border="1"> <tr> <td>x</td> <td>cause an imminent peril to the public health, safety, or welfare;</td> </tr> <tr> <td></td> <td>cause an imminent budget reduction because of budget restraints or federal requirements; or</td> </tr> <tr> <td></td> <td>place the agency in violation of federal or state law.</td> </tr> </table>	x	cause an imminent peril to the public health, safety, or welfare;		cause an imminent budget reduction because of budget restraints or federal requirements; or		place the agency in violation of federal or state law.
x	cause an imminent peril to the public health, safety, or welfare;					
	cause an imminent budget reduction because of budget restraints or federal requirements; or					
	place the agency in violation of federal or state law.					
Specific reason and justification:						
Due to the COVID-19 pandemic there are child care subsidy (CC) customers who have lost employment through no fault of their own and require additional funds in order to care for their children. Excluding the \$600 per week Federal Pandemic Unemployment Compensation (FPUC) payments from CC income eligibility determinations will allow families who are eligible for CC to maintain eligibility while receiving FPUC, thus allowing them to return to work more quickly once business resumes. The previous emergency rule was enacted April 20, 2020, and effective through July 20, 2020. However, FPUC payments will continue through July 31, 2020, and perhaps longer, depending on Congressional action. This second emergency rule is being put in place until a final rule can be enacted under the regular rulemaking process.						

Fiscal Information

7. Aggregate anticipated cost or savings to:
A) State budget:
The new emergency rule is not expected to have any fiscal

impacts on state revenues or expenditures. There are no additional state employees or resources needed to oversee the new emergency rule. The new emergency rule will not increase workload and can be carried out with existing budget. Any costs will be paid with funds granted to the state through the federal Child Care and Development Fund.

B) Local governments:

The new emergency rule is not expected to have any fiscal impact on local governments' revenues or expenditures because the program is federally-funded and does not rely on local governments for funding, administration, or enforcement.

C) Small businesses ("small business" means a business employing 1-49 persons):

The majority of child care providers are small businesses (North American Industry Classification System (NAICS) 624410). It is anticipated that this new emergency rule will allow approximately 397 families with 725 children to continue to receive child care based on data obtained on April 17, 2020. The average subsidy payment per child each month is \$478. As a result, this will allow approximately \$346,550 per month to continue to flow to child care providers so they can maintain their businesses. In the absence of the rule change, these programs will lose this funding at a time when enrollment and revenues in programs are dramatically reduced.

D) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an *agency*):

It is anticipated that this emergency rule will allow approximately 397 families with 725 children to continue to receive child care based on data obtained on April 17, 2020. The average subsidy payment per child each month is \$478. The new emergency rule will support low-income parents to maintain their child care arrangements during the COVID-19 pandemic.

8. Compliance costs for affected persons:

The new emergency rule is not expect to cause any compliance costs for affected persons because the amendment does not create any new administrative fees. Provider compliance responsibilities are not changed with this amendment.

9. A) Comments by the department head on the fiscal impact this rule may have on businesses:

The funding for child care is provided by the federal Child Care and Development Block Grant (CCDBG). At this time, child care programs continue to receive subsidy payments for all families that were determined eligible for subsidies at the time of application unless their earnings exceed the federally established income threshold of 85%

of the state median income (SMI). The CCDBG Act allows states to establish the definition of "income" for purposes of determining whether a family is at 85% SMI. Utah includes standard unemployment benefits as "income" for purposes of eligibility. This rule will not change that underlying requirement. However, by excluding the additional unemployment payment of \$600 per week established in the Coronavirus Aid, Relief, and Economic Security Act of 2020 for all qualified UI recipients, Utah will be supporting the child care businesses that rely on family tuition payments to meet most operating expenses by maintain program income through a stable child care subsidy program. This is of great economic importance to Utah given that approximately 38% of licensed centers and 18% of licensed family child care programs have already had to close during the COVID-19 pandemic due to low enrollment.

B) Name and title of department head commenting on the fiscal impacts:

Jon Pierpont, Executive Director

Citation Information

10. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution

citations (required):	
Section 35A-3-310	Section 53F-5-210

Agency Authorization Information

Agency head or designee, and title:	Jon Pierpont, Executive Director	Date:	06/15/2020
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R986. Workforce Services, Employment Development.

R986-700. Child Care Assistance.

R986-700-900. Emergency Rules, Pandemic.

(1) This Section supersedes any conflicting provisions of Rules R986-200 and R986-700.

(2) Federal Pandemic Unemployment Compensation under Section 2104 of the Coronavirus Aid, Relief, and Economic Security Act of 2020, Pub. L. No. 116-136, is not countable unearned income for purposes of determining eligibility for any child care subsidy program.

KEY: child care, grant programs

Date of Enactment or Last Substantive Amendment: June 15, 2020

Notice of Continuation: September 3, 2015

Authorizing, and Implemented or Interpreted Law: 35A-3-310; 53A-1b-110; 53F-5-210

End of the Notices of 120-Day (Emergency) 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 <https://rules.utah.gov/>. The rule text may also be inspected at the agency or the Office of Administrative Rules. **REVIEWS** are effective upon filing.

REVIEWS are governed by Section 63G-3-305.

FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R131-6	Filing No. 50221

Agency Information

1. Department:	Capitol Preservation Board (State)	
Agency:	Administration	
Building:	Capitol State Building	
Street address:	350 North State Street	
City, state, zip:	Salt Lake City, UT 84103	
Contact person(s):		
Name:	Phone:	Email:
Michael Kelley		mkelley@agutah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R131-6. Board Designation of Space
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 63C-9-301 directs the Capitol Preservation Board (Board) to make rules to exercise jurisdiction over such Capitol Hill facilities and grounds for which it has responsibility to administer.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There have been no written comments received during and since the last five-year review of this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
Section 63C-9-301 directs the Board to make rules to exercise jurisdiction over such Capitol Hill facilities and grounds for which it has responsibility to administer. Without this rule, the Board cannot manage the facilities and grounds which it is responsible for. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Allyson Gamble, Executive Director	Date:	06/10/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R164-32	Filing No. 50338

Agency Information

1. Department:	Commerce		
Agency:	Securities		
Room no.:	2nd Floor		
Building:	Heber Wells Building		
Street address:	160 E 300 S		
City, state, zip:	Salt Lake City, UT 84111		
Mailing address:	PO Box 146760		
City, state, zip:	Salt Lake City, UT 84114-6760		
Contact person(s):			
Name:	Phone:	Email:	

Charles Lyons	801-530-6940	clyons@utah.gov
Tom Brady	801-530-6610	tbrady@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:

R164-32. Codification of Precedent

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

Subsection 63G-3-201(2) requires rulemaking when the Division of Securities (Division) agency action authorizes, requires, or prohibits an action; provides or prohibits a material benefit; applies to a class of persons or another agency; or is explicitly or implicitly authorized by statute. Subsection 63G-3-201(3) requires rulemaking when the Division issues a written interpretation of a state or federal legal mandate. Subsection 63G-3-201(6) requires rulemaking to incorporate principles of law not already in Division rules that are established by final adjudicative decisions within 120 days after the decision is announced in its cases. Section 61-1-24 authorizes the Division to make rules when necessary to carry out provisions of the Utah Uniform Securities Act.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments have been received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is required by the provisions of the Administrative Rulemaking Act as set forth above, and codifies holdings set forth in final orders issued in formal administrative proceedings. The rule assists the public and licensees by incorporating principles and interpretations of law articulated in final orders into Division rules. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Thomas Brady, Division Director	Date:	06/03/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION

Utah Admin. Code Ref (R no.):	R251-104	Filing No. 50352
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Agency Information

1. Department:	Corrections	
Agency:	Administration	
Street address:	14717 S. Minuteman Dr.	
City, state, zip:	Draper, UT 84020	
Contact person(s):		
Name:	Phone:	Email:
Steve Gehrke	435-237-8040	sgehrke@utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:

R251-104. Declaratory Orders

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

As required by Section 63G-4-503, the purpose of this rule is to define policy, procedures and requirements governing the submission, review, and disposition of petitions for declaratory orders determining the applicability of statutes, rules, and orders within the jurisdiction of the Department of Corrections (Department).

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

No comments on this rule have been received since the last five-year review.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

The purpose of this rule is define policy, procedures and requirements governing the submission, review, and disposition of petitions for declaratory orders determining the applicability of statutes, rules, and orders within the jurisdiction of the Department. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Mike Haddon, Executive Director	Date:	06/09/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R251-303	Filing No. 50354

Agency Information

1. Department:	Corrections	
Agency:	Administration	
Street address:	14717 S. Minuteman Dr.	
City, state, zip:	Draper, UT 84020	
Contact person(s):		
Name:	Phone:	Email:
Steve Gehrke	385-237-8040	sgehrke@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R251-303. Offenders' Use of Telephones
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized by Sections 63G-3-201 and 64-13-10, which allows the Department of Corrections (Department) to adopt standards and rules in accordance with its responsibilities. The purpose of this rule is to provide the Department's policy and procedures governing offenders' access to and use of telephones.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The agency has not received any comments.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The purpose of this rule is to provide the Department's policy and procedures governing the continued access for offender on the use of telephones. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Mike Haddon, Executive Director	Date:	06/09/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R251-712	Filing No. 50369

Agency Information

1. Department:	Corrections	
Agency:	Administration	
Street address:	14717 S. Minuteman Dr.	
City, state, zip:	Draper, UT 84020	
Contact person(s):		
Name:	Phone:	Email:
Steve Gehrke	385-237-8040	sgehrke@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R251-712. Release
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized under Sections 63G-3-201, 64-13-7, and 64-13-10. The purpose of this rule is to provide the Department of Correction's (Department) policy regarding inmates leaving the institution on parole, termination, expiration of sentence, or being released to a detainer.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No comments on this rule have been received since the last five-year review.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The purpose of this rule is to provide the Department's policy regarding inmates leaving the institution on parole, termination, expiration of sentence, or being released to a detainer. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Mike Haddon, Executive Director	Date:	06/10/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R277-444	Filing No. 50425

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state, zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7656	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R277-444. Distribution of Money to Arts and Science Organizations
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized by Utah Constitution, Article X, Section 3, which vests general control and supervision of the public school system with the State Board of Education (Board); Subsection 53E-3-401(4), which allows the Board to adopt rules in accordance with its responsibilities; and Section 53E-3-501, which directs the Board to establish rules and standards for the public schools, including curriculum and instruction requirements.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There were no written comments received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule continues to be necessary because it provides for the distribution of money appropriated by the state to an arts or science organization that provides an educational service to a student or teacher; and facilitates a student developing and using the knowledge, skills, and appreciation defined in an arts or science core standard. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	06/05/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R277-491	Filing No. 50446

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state, zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7656	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R277-491. School Community Councils
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized by Utah Constitution, Article X, Section 3, which vests general control and supervision over public education in the State Board of Education (Board); and Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law. This rule does not apply to charter schools.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
There were no written comments received.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule continues to be necessary because it provides procedures and clarifying information to a school community council to assist the council in fulfilling school community council responsibilities consistent with

Sections 53G-7-1202 through 53G-7-1203; provides direction to a local school board, school, and school district in establishing and maintaining a school community council; provides a framework and support for improved academic achievement of students that is locally driven from within an individual school; encourages increased participation of a parent, school employee, and others to support the mission of a school community council; increase public awareness of: school trust lands; the permanent State School Fund; and educational excellence; and enforce compliance with the laws governing a school community council. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	06/05/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R277-497	Filing No. 50460

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state, zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7656	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R277-497. School Accountability System
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized by Article X, Section 3, which vests general control and supervision over public education in the Utah State Board of Education (Board); Section 53E-5-202, which directs the Board to adopt rules to implement a statewide accountability system; and Subsection 53E-3-401(4), which allows the Board to make rules to execute

the Board's duties and responsibilities under the Utah Constitution and state law.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There were no written comments received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule continues to be necessary because it sets performance thresholds for the purpose of assigning overall ratings to schools, establish provisions for the methodology of calculating points, and address exclusions from the school accountability system. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	06/05/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R277-607	Filing No. 50497

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state, zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7656	angie.stallings@schools.utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R277-607. Truancy Prevention
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

FIVE-YEAR NOTICES OF REVIEW AND STATEMENTS OF CONTINUATION

This rule is authorized by Utah Constitution, Article X, Section 3 which vests general control and supervision of public education in the State Board of Education (Board), Subsection 53E-3-401(4), which permits the Board to adopt rules in accordance with its responsibilities, and Section 53G-6-206 which directs educational entities and parents working on behalf of children to make efforts to resolve school attendance problems of school-age minors who are or should be enrolled in local education agencies (LEAs).

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There were no written comments received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule continues to be necessary because it directs LEAs to establish procedures for informing parents about compulsory education laws; encouraging and monitoring school attendance consistent with the law; and providing firm consequences for noncompliance. This rule encourages meaningful incentives for parental responsibility and directs LEAs to establish ongoing truancy prevention procedures in schools especially for students in grades 1 through 8. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	06/05/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R277-752	Filing No. 50542

Agency Information

1. Department:	Education	
Agency:	Administration	
Building:	Board of Education	
Street address:	250 E 500 S	
City, state, zip:	Salt Lake City, UT 84111	
Mailing address:	PO Box 144200	
City, state, zip:	Salt Lake City, UT 84114-4200	
Contact person(s):		
Name:	Phone:	Email:
Angie Stallings	801-538-7656	angie.stallings@schools.utah.gov

Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:
R277-752. Special Education Intensive Services Fund

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule is authorized by Utah Constitution Article X, Section 3, which vests general control and supervision over public education in the Board; Subsection 53E-3-401(4), which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law; and Section 53F-2-309, which requires the Board to make rules establishing a distribution formula to allocate money appropriated to the board for the special education intensive services fund.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

There were no written comments received.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule continues to be necessary because establishes an application process for the special education intensive services fund; and a formula to distribute the funds. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Angie Stallings, Deputy Superintendent	Date:	06/05/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R495-890	Filing No. 51177

Agency Information

1. Department:	Human Services	
Agency:	Administration	
Building:	MASOB	
Street address:	195 N 1950 W	
City, state, zip:	Salt Lake City, UT 84116	
Contact person(s):		
Name:	Phone:	Email:

Jonah Shaw	801-538-4219	jshaw@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R495-890. Department of Human Services Conflict Investigation Procedure
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule, in accordance with Sections 62A-1-110, 62A-1-111, and 62A-4a-202.6 sets forth procedures and standards that are essential in developing Department of Human Services (Department) Conflict Investigation Procedure.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments have been received during and since the last five-year review of this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule establishes the Department Conflict Investigation Procedure and is required to set forth requirements and standards for its operation. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Mark Brasher, Deputy Director	Date:	06/12/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R590-271	Filing No. 51452

Agency Information

1. Department:	Insurance
Agency:	Administration
Room no.:	3110
Building:	State Office Building
Street address:	450 N State St.
City, state, zip:	Salt Lake City, UT 84114
Mailing address:	PO Box 146901

City, state, zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-538-3803	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R590-271. Data Reporting for Consumer Quality Comparison
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
Section 31A-2-216 authorizes the Insurance Commissioner to adopt rules to educate health care consumers by producing or collecting and disseminating education materials to consumers.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department received two comments during the past five years. One was from a constituent asking that the rule be kept "simple and straight forward, with as little governmental involvement as possible"; the other was from an insurer who pointed out that reporting may be skewed initially if insurers don't keep certain data in a supported format.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
This rule should be continued because it provides a vital service for Utah consumers. It requires health insurers to submit certain data to the Insurance Department for display to the public. This allows members of the public to review the data to compare various insurance plans when deciding what insurance to purchase.

Agency Authorization Information

Agency head or designee, and title:	Steve Gooch, Public Information Officer 1	Date:	06/09/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R895-8	Filing No. 52086

Agency Information

1. Department:	Technology Services	
Agency:	Administration	
Room no.:	6th Floor	
Street address:	1 State Office Building	
City, state, zip:	Salt Lake City, UT 84115	
Mailing address:	1 State Office Building, 6th Floor	
City, state, zip:	Salt Lake City, UT 84115	
Contact person(s):		
Name:	Phone:	Email:
Stephanie Weteling	801-538-3284	stephanie@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R895-8. State Privacy Policy and Agency Privacy Policies
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is issued by the Chief Information Officer (CIO) under the authority of Section 63F-1-206 of the Technology Governance Act which requires a rule for standards related to the privacy policies of websites operated by or on behalf of an executive branch agency.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
No written comments were received during and since the last five-year review of this rule from interested persons supporting or opposing this rule.
5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:
The rule is needed to provide standards related to the privacy policies of websites operated by or on behalf of an executive branch agency. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Michael Hussey, Executive Director	Date:	06/09/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R916-4	Filing No. 52122

Agency Information

1. Department:	Transportation	
Agency:	Operations, Construction	
Room no.:	First Floor Administration Suite	
Building:	Calvin Rampton	
Street address:	4501 S 2700 W	
City, state, zip:	Salt Lake City, UT 84129	
Mailing address:	PO Box 148455	
City, state, zip:	Salt Lake City, UT 84114-8455	
Contact person(s):		
Name:	Phone:	Email:
Linda Hull	801-965-4253	lhull@utah.gov
James Palmer	801-965-4197	jimpalmer@agutah.gov
Lori Edwards	801-965-4048	loriedwards@agutah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R916-4. Construction Manager/General Contractor and Progressive Construction Manager/General Contractor Contracts
3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:
This rule is authorized by Sections 63G-6a-106, 63G-6a-702, and 63G-6a-1302 of the Utah Procurement Code. It sets forth procedures the Department of Transportation (Department) follows when establishing construction manager/general contractor and progressive construction manager/general contractor contracts, which is done quite frequently because their use maximizes value for road construction contracting.
4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:
The Department has not received any written comments during and since the last five-year review of this rule from interested persons supporting or opposing this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule helps the Department maximize value for taxpayers in its road construction contracting program. Eliminating this rule will lead to higher costs to taxpayers and hamper the department's ability to design, construct, and maintain transportation systems in the state. Therefore, this rule should be continued.

Agency Authorization Information

Agency head or designee, and title:	Carlos M. Braceras, Executive Director	Date:	06/10/2020
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FIVE-YEAR NOTICE OF REVIEW AND STATEMENT OF CONTINUATION		
Utah Admin. Code Ref (R no.):	R926-8	Filing No. 52144

Agency Information

1. Department:	Transportation	
Agency:	Program Development	
Room no.:	First Floor Administration Suite	
Building:	Calvin Rampton	
Street address:	4501 S 2700 W	
City, state, zip:	Salt Lake City, UT 84129	
Mailing address:	PO Box 148455	
City, state, zip:	Salt Lake City, UT 84114-8455	
Contact person(s):		
Name:	Phone:	Email:
Linda Hull	801-965-4253	lhull@utah.gov
James Palmer	801-965-4197	jimpalmer@agutah.gov

Lori Edwards	801-965-4048	loriedwards@agutah.gov
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Please address questions regarding information on this notice to the agency.

General Information

2. Rule catchline:
R926-8. Guidelines for Partnering with Local Governments

3. A concise explanation of the particular statutory provisions under which the rule is enacted and how these provisions authorize or require this rule:

This rule is required by Subsection 72-2-123(1), which is still effective law.

4. A summary of written comments received during and since the last five-year review of this rule from interested persons supporting or opposing this rule:

The Department of Transportation has not received any written comments during and since the last five-year review of this rule from interested persons supporting or opposing this rule.

5. A reasoned justification for continuation of this rule, including reasons why the agency disagrees with comments in opposition to this rule, if any:

This rule is required by Subsection 72-2-123(1), which is still effective law. Therefore, this rule must be continued.

Agency Authorization Information

Agency head or designee, and title:	Carlos M. Braceras, Executive Director	Date:	06/10/2020
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End of the Five-Year Notices of Review and Statements of Continuation Section

NOTICES OF FIVE-YEAR REVIEW EXTENSIONS

Rulewriting agencies are required by law to review each of their administrative rules within five years of the date of the rule's original enactment or the date of last review (Section 63G-3-305). If the agency finds that it will not meet the deadline for review of the rule (the five-year anniversary date), it may file a **NOTICE OF FIVE-YEAR REVIEW EXTENSION (EXTENSION)** with the Office of Administrative Rules. The **EXTENSION** permits the agency to file the review up to 120 days beyond the anniversary date.

Agencies have filed **EXTENSIONS** for the rules listed below. The "Extended Due Date" is 120 days after the anniversary date.

EXTENSIONS are governed by Subsection 63G-3-305(6).

NOTICE OF FIVE-YEAR REVIEW EXTENSION		
Utah Admin. Code Ref (R no.):	R251-110	Filing No. 50351

Agency Information

1. Department:	Corrections	
Agency:	Administration	
Street address:	14717 S Minuteman Dr.	
City, state, zip:	Draper, UT 84020	
Contact person(s):		
Name:	Phone:	Email:
Steve Gehrke	385-237-8040	sgehrke@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule catchline:
R251-110. Sex Offender Registration Program
3. Reason for requesting the extension and the new deadline date:
The agency seeks to request an extension until 09/01/2020 to make necessary revisions regarding public access to the registry. The new deadline is 12/19/2020.

Agency Authorization Information

Agency head or designee, and title:	Mike Haddon, Executive Director	Date:	06/09/2020
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End of the Notices of Five-Year Review Extensions 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.

Administrative Services

Debt Collection

No. 52679 (Amendment): R21-3 Debt Collection Through Administrative Offset
Published: 05/15/2020
Effective: 06/22/2020

No. 52675 (Amendment): R156-79 Hunting Guides and Outfitters Licensing Act Rule

Published: 05/15/2020
Effective: 06/23/2020

Finance

No. 52655 (New Rule): R25-22 Financial Institution Validation for Access to Medical Inventory Control System
Published: 05/01/2020
Effective: 06/08/2020

Education

Administration

No. 52741 (Amendment): R277-304 Teacher Preparation Programs
Published: 05/15/2020
Effective: 06/22/2020

Risk Management

No. 52678 (Amendment): R37-4 Adjusted Utah Governmental Immunity Act Limitations on Judgments.
Published: 05/15/2020
Effective: 07/01/2020

No. 52652 (Amendment): R277-306 Educator Preparation Programs for School Psychologists, Audiologists, Speech-Language Pathologists, Speech-Language Technicians, and Counselors
Published: 05/01/2020
Effective: 06/10/2020

Agriculture and Food

Regulatory Services

No. 52653 (Amendment): R70-101 Bedding, Upholstered Furniture, and Quilted Clothing
Published: 05/01/2020
Effective: 06/08/2020

No. 52742 (Amendment): R277-415 School Nurses Matching Funds
Published: 05/15/2020
Effective: 06/22/2020

Commerce

Occupational and Professional Licensing

No. 52708 (Amendment): R156-15a Administration of Building Code Inspector Training Fund, Building Code Construction-Related Training Fund, and Factory Built Housing Fees Account
Published: 05/15/2020
Effective: 06/23/2020

No. 52743 (Amendment): R277-712 Competency-based Grant Programs
Published: 05/15/2020
Effective: 06/22/2020

No. 52744 (New Rule): R277-736 Juvenile Court or Law Enforcement Notice and Information Dissemination
Published: 05/15/2020
Effective: 06/22/2020

NOTICES OF RULE EFFECTIVE DATES

Environmental Quality

Air Quality

No. 52596 (Amendment): R307-101 Version of the Code of Federal Regulations Incorporated by Reference

Published: 04/01/2020

Effective: 06/04/2020

No. 52597 (Amendment): R307-210 Standards of Performance for New Stationary Sources

Published: 04/01/2020

Effective: 06/04/2020

No. 52598 (Amendment): R307-214 National Emission Standards for Hazardous Air Pollutants

Published: 04/01/2020

Effective: 06/04/2020

No. 52599 (Amendment): R307-405 Applicability

Published: 04/01/2020

Effective: 06/04/2020

No. 52600 (Amendment): R307-410 Permits: Emissions Impact Analysis

Published: 04/01/2020

Effective: 06/04/2020

Governor

Economic Development

No. 52670 (New Rule): R357-28 Talent Ready Connections Program

Published: 05/01/2020

Effective: 06/08/2020

Health

Administration

No. 52606 (New Rule): R380-400 Utah Medical Cannabis Act Rule

Published: 04/15/2020

Effective: 06/10/2020

No. 52607 (New Rule): R380-401 Electronic Verification System

Published: 04/15/2020

Effective: 06/10/2020

No. 52608 (New Rule): R380-402 Medical Cannabis Cards

Published: 04/15/2020

Effective: 06/10/2020

No. 52609 (New Rule): R380-403 Qualified Medical Providers

Published: 04/15/2020

Effective: 06/10/2020

No. 52610 (New Rule): R380-404 Dosing Parameters

Published: 04/15/2020

Effective: 06/10/2020

No. 52611 (New Rule): R380-405 Pharmacy Medical Providers

Published: 04/15/2020

Effective: 06/10/2020

No. 52614 (New Rule): R380-406 Medical Cannabis Pharmacy

Published: 04/15/2020

Effective: 06/10/2020

No. 52615 (New Rule): R380-407 Medical Cannabis Pharmacy Agent

Published: 04/15/2020

Effective: 06/10/2020

No. 52616 (New Rule): R380-408 Home Delivery and Courier

Published: 04/15/2020

Effective: 06/10/2020

No. 52617 (New Rule): R380-409 State Central Patient Portal

Published: 05/01/2020

Effective: 06/10/2020

No. 52618 (New Rule): R380-410 Agreement with a Tribe

Published: 05/01/2020

Effective: 06/10/2020

No. 52619 (New Rule): R380-411 Administrative Hearing Procedures

Published: 05/01/2020

Effective: 06/10/2020

Health Care Financing, Coverage and Reimbursement Policy

No. 52668 (Amendment): R414-60 Limitations

Published: 05/01/2020

Effective: 06/19/2020

No. 52632 (Amendment): R414-516 Nursing Facility Non-State Government-Owned Upper Payment Limit Quality Improvement Program

Published: 04/15/2020

Effective: 06/19/2020

Family Health and Preparedness, Emergency Medical Services

No. 52667 (Amendment): R426-8 Emergency Medical Services Ground Ambulance Rates and Charges

Published: 05/01/2020

Effective: 07/01/2020

Family Health and Preparedness, Child Care Licensing

No. 52592 (Amendment): R430-90 Licensed Family Child Care

Published: 03/15/2020

Effective: 06/10/2020

Family Health and Preparedness, Maternal and Child Health
 No. 52662 (Repeal): R433-1 Very Low Birth Weight Infant
 Reporting
 Published: 05/01/2020
 Effective: 06/11/2020

No. 52740 (New Rule): R433-2 Early Childhood Utah
 Advisory Council Membership, Duties and Procedures
 Published: 05/15/2020
 Effective: 06/22/2020

Human Resource Management

Administration

No. 52709 (Amendment): R477-1 Definitions
 Published: 05/15/2020
 Effective: 07/01/2020

No. 52713 (Amendment): R477-2 Administration
 Published: 05/15/2020
 Effective: 07/01/2020

No. 52714 (Amendment): R477-3 Classification
 Published: 05/15/2020
 Effective: 07/01/2020

No. 52715 (Amendment): R477-4 Filling Positions
 Published: 05/15/2020
 Effective: 07/01/2020

No. 52716 (Amendment): R477-5 Employee Status and
 Probation
 Published: 05/15/2020
 Effective: 07/01/2020

No. 52717 (Amendment): R477-6 Compensation
 Published: 05/15/2020
 Effective: 07/01/2020

No. 52718 (Amendment): R477-7 Leave
 Published: 05/15/2020
 Effective: 07/01/2020

No. 52719 (Amendment): R477-8 Working Conditions
 Published: 05/15/2020
 Effective: 07/01/2020

No. 52720 (Amendment): R477-9 Employee Conduct
 Published: 05/15/2020
 Effective: 07/01/2020

No. 52721 (Amendment): R477-10 Employee Development
 Published: 05/15/2020
 Effective: 07/01/2020

No. 52722 (Amendment): R477-11 Discipline
 Published: 05/15/2020
 Effective: 07/01/2020

No. 52723 (Amendment): R477-12 Separations
 Published: 05/15/2020
 Effective: 07/01/2020

No. 52724 (Amendment): R477-13 Volunteer Programs
 Published: 05/15/2020
 Effective: 07/01/2020

No. 52725 (Amendment): R477-14 Substance Abuse and
 Drug-Free Workplace
 Published: 05/15/2020
 Effective: 07/01/2020

No. 52726 (Amendment): R477-15 Workplace Harassment
 Prevention
 Published: 05/15/2020
 Effective: 07/01/2020

No. 52727 (Amendment): R477-16 Abusive Conduct
 Prevention
 Published: 05/15/2020
 Effective: 07/01/2020

No. 52728 (Amendment): R477-101 Administrative Law
 Judge Conduct Committee
 Published: 05/15/2020
 Effective: 07/01/2020

Human Services

Child Protection Ombudsman (Office of)

No. 52633 (Amendment): R515-1 Processing Complaints
 Regarding the Utah Division of Child and Family Services
 Published: 04/15/2020
 Effective: 06/01/2020

Recovery Services

No. 52710 (Amendment): R527-258 Enforcing Child
 Support When the Obligor is an Ex-Prisoner or in a Treatment
 Program
 Published: 05/15/2020
 Effective: 06/22/2020

Insurance

Administration

No. 52647 (Amendment): R590-160 Adjudicative
 Proceedings
 Published: 05/01/2020
 Effective: 06/08/2020

No. 52648 (Repeal): R590-278 Consent Requests Under
 18 USC 1033(e)(2)
 Published: 05/01/2020
 Effective: 06/08/2020

No. 52649 (Amendment): R590-281 Eligibility to Apply for a
 License
 Published: 05/01/2020
 Effective: 06/08/2020

NOTICES OF RULE EFFECTIVE DATES

Natural Resources

Oil, Gas and Mining; Oil and Gas

No. 52641 (Amendment): R649-1 Definitions

Published: 04/15/2020

Effective: 06/01/2020

No. 52642 (Amendment): R649-2 General Rules

Published: 04/15/2020

Effective: 06/01/2020

Wildlife Resources

No. 52734 (Amendment): R657-5 Taking Big Game

Published: 05/15/2020

Effective: 06/22/2020

No. 52735 (Amendment): R657-10 Taking Cougar

Published: 05/15/2020

Effective: 06/22/2020

No. 52736 (Amendment): R657-33 Taking Bear

Published: 05/15/2020

Effective: 06/22/2020

No. 52737 (Amendment): R657-37 Cooperative Wildlife
Management Units for Big Game or Turkey

Published: 05/15/2020

Effective: 06/22/2020

No. 52673 (Amendment): R657-57 Division Variance Rule

Published: 05/15/2020

Effective: 06/22/2020

No. 52738 (Amendment): R657-62 Drawing Applications

Published: 05/15/2020

Effective: 06/22/2020

End of the Notices of Rule Effective Dates Section